

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
HON. JENNIFER L. THURSTON

UNITED STATES OF AMERICA,	)	
	)	1:20-cr-00238-JLT-SKO
Plaintiff,	)	
	)	Jury Trial, Day 15
vs.	)	
	)	
KENNETH BASH, et al.	)	Volume 15
	)	Pgs. 3061 - 3239, inclusive
Defendants.	)	
_____	)	

Fresno, California

Tuesday, February 11, 2025

REPORTER'S TRANSCRIPT OF PROCEEDINGS

REPORTED BY: RACHAEL LUNDY, CSR, RMR, Official Reporter

Proceedings recorded by mechanical stenography, transcript  
produced by computer-aided transcription.

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1 Tuesday, February 11, 2025 Fresno, California

2 8:00 a.m. Jury Trial Day 15

3 (The following proceedings were held in open court:)

4 THE COURT: Okay. So we are still waiting on a  
5 couple of jurors, but I will tell you that they have decided  
6 to keep the same schedule in deliberations, 8:00 to 1:30.

7 Is there an estimate as to your closing argument,  
8 Ms. Stokman?

9 MS. STOKMAN: Judge, it seems to be right about an  
10 hour. So if it starts to hit at the hour place, it's pretty  
11 much going to wrap up very quickly after that.

12 THE COURT: So the likelihood is what will happen is  
13 I'll give preliminary instructions, they'll argue, we'll take  
14 a break, and then who is going to be up next?

15 MS. FISHER-BYRIALSEN: I am, Your Honor.

16 THE COURT: All right. And your estimate of your  
17 argument?

18 MS. FISHER-BYRIALSEN: I think like 30 to 40 minutes.

19 THE COURT: Okay. And then who is after  
20 Ms. Byrialsen, Ms. Luem?

21 MS. FISHER-BYRIALSEN: Ms. Luem and then Mr. Reed, if  
22 that's okay.

23 THE COURT: I'm just trying to think of scheduling.

24 Ms. Luem, how long is your --

25 MS. LUEM: I anticipate I won't take a full hour.

1           THE COURT: All right. So probably then we'll do  
2 those two arguments, take a break, and then, Mr. Reed, we'll  
3 go to you.

4           How long do you think yours will be?

5           MR. REED: Around a half hour, but probably less.

6           THE COURT: Okay. All right. So then we'll probably  
7 do that and then go to the government and final instructions  
8 and then move from there.

9           Before we begin, I received the request for the  
10 special interrogatories. Let me start with Mr. Johnson. I  
11 think that's probably the easier one.

12           I'm not sure I understand the rationale of asking the  
13 same questions for the third time.

14           Ms. Luem, your comments.

15           MS. LUEM: I was going to have Mr. Villa address it,  
16 but, essentially, it's the same argument that Ms. Barrett is  
17 making in terms of delineating the overt acts, as they go to  
18 the -- well, I mean, the government has to prove two predicate  
19 acts, and those are the two that, uh, Mr. Johnson is charged  
20 with.

21           I think it is -- I think it's a little bit easier for  
22 the jury to understand if they have the special interrogatory  
23 in terms of the case law. I believe it's cited at the bottom  
24 of Ms. Barrett's request.

25           THE COURT: All right. Anything else on that topic?

1 MS. LUEM: No.

2 THE COURT: All right. As to Mr. Johnson, because  
3 these exact questions are already asked as to Questions 2 --  
4 2(c) and 2 -- well, I don't know where the October 1st date  
5 comes in, but I'm assuming you're referring to Questions 2(a)  
6 and 2(b).

7 So they were already asked, they're already set forth  
8 because they are a duplicate of the sentencing factors  
9 questions. So it just doesn't -- I don't understand at all  
10 that situation in requesting that determination for a third  
11 time. So that's not going -- we're not going to do that.

12 As to Mr. Clement's, I have the same issue as to the  
13 murder questions because they're asked twice already, and then  
14 I would be more inclined as to the robbery question and the  
15 methamphetamine question.

16 Comments, Ms. Barrett?

17 MS. DE SALES BARRETT: Yes, Your Honor.

18 Your Honor, this is -- I've cited the cases that have  
19 made endorsements of the special interrogatories, and I would  
20 note that they're all RICO cases and all would have required  
21 special findings with regard under *Apprendi*.

22 It is -- it's a different issue and the jury does not  
23 have to go through the verdict sheet in the order in which it  
24 appears. They can read the whole thing first and then make  
25 their determinations as to what direction they want to

1 deliberate and not the direction necessarily from the verdict  
2 sheet going 1, 2, 3, et cetera.

3 So I would submit, Your Honor, that it -- that while  
4 they're asking a similar question, it's not identical, for one  
5 thing.

6 And the other thing is that the verdict sheet itself  
7 is something that does not control the deliberations of the  
8 jury. And the reality is that the courts that have actually  
9 addressed this have basically said that they've approved  
10 special interrogatories with regard to predicate acts in RICO  
11 cases.

12 And as I cited, the Third Circuit has model  
13 instructions to this effect, and all of it is included in the  
14 Third Circuit model instruction, including the findings  
15 necessary for the *Apprendi* issue and the special  
16 interrogatories.

17 This is not new stuff. This is not taking this to  
18 Mars. This is something that is happening regularly in  
19 racketeering cases in federal courts across the country.

20 THE COURT: Right. That's why I suggested special  
21 interrogatories. But the issue, though, is what I said on --  
22 the other day on Friday and what I still think is appropriate  
23 in this case is that determination only if there is a guilty  
24 finding as to Count 1 and answers of no as to all the  
25 questions under 2 and not guilty as to all of the other

1 questions.

2 Because otherwise, the purpose of this -- the utility  
3 is only for purposes of appeal. There is not a necessity.  
4 And even the cases you cite don't say it's necessary. They're  
5 saying it's not error, which is not my concern because I  
6 already have a verdict form that is not error.

7 So that's where I'm at. And my thinking is -- my  
8 question really -- I don't see the point in asking the jury to  
9 make the same finding three times. And if you want those  
10 different questions, I would be willing to do that, but only  
11 in -- on the terms that I've said.

12 Because there's no -- it's simply, to me, an issue of  
13 an appeal. And I haven't heard anything different. Because  
14 on purposes of appeal, if there is not a finding as to -- if  
15 there is a not guilty and no finding as to the murders, then I  
16 could understand on appeal that you would want to know where  
17 to focus the argument.

18 Otherwise, if there are guilty findings and yes  
19 findings as to the murder, doesn't really do much. So  
20 that's -- that's the thinking.

21 The question that I have is simply whether the  
22 interrogatories should go to the jury at the same time as the  
23 verdict form, which is typical. And it brings people what  
24 they have -- they don't come to a verdict and then have to be  
25 slapped with something else to do.

1           So there is an expectancy issue, but I'm kind of  
2 indifferent.

3           What is your preference, Ms. Barrett?

4           MS. DE SALES BARRETT: Your Honor, if the -- all of  
5 the interrogatories don't go in with regard to the charges in  
6 the indictment, uh -- then, uh, it makes no sense to me to,  
7 uh, single out the two interrogatories having to do with the  
8 robberies.

9           THE COURT: Okay.

10          MS. DE SALES BARRETT: Uh, and in -- but, Your Honor,  
11 I would ask that -- I know that we have been doing this  
12 informally with regard to submissions, because we've sent the  
13 charged requests and things like that by email, but I would  
14 request that the Court either mark this or give me permission  
15 to tonight file it in PDF on the docket.

16          THE COURT: Sure. Yeah. Go ahead and file it.

17          MS. DE SALES BARRETT: Thank you.

18          THE COURT: All right. Anything else before we --

19          MR. VILLA: Your Honor, with respect to the  
20 information we received about Mr. True from CDCR --

21          THE COURT: Yes.

22          MR. VILLA: -- I'd ask that the Court make it an  
23 exhibit for the record.

24          THE COURT: It's already marked, and it's already  
25 been filed. It's just under seal.



1 MR. VILLA: And, Your Honor, there's a redacted  
2 version and, I suppose, an unredacted version. Is the  
3 redacted version what's marked and under seal?

4 THE COURT: Yes.

5 MR. VILLA: And those are the Court's redactions,  
6 correct?

7 THE COURT: Correct.

8 MR. VILLA: And just, you know, for our record, I  
9 think there is information in there that was inconsistent with  
10 Mr. True's direct trial testimony. And that's also our  
11 position that, although we subpoenaed this information and  
12 obtained it, that the United States was obligated, knowing  
13 they were going to call Mr. True as a witness, to have  
14 produced this information prior to trial.

15 THE COURT: And what authority are you relying on for  
16 that?

17 MR. VILLA: *Brady and Giglio*, Your Honor, and  
18 *Kyles v. Whitley*, which says that anything within the law  
19 enforcements teams --

20 THE COURT: That's where I'm going with -- this is a  
21 state agency, so I'm more interested in your authority for the  
22 proposition that the federal prosecutor must -- has control  
23 over what's contained by the state agency.

24 MR. VILLA: So, Your Honor, one of the authors of the  
25 autobiography was Cope, who I think is part of CDCR. He was

1 on the government's original witness list and part of the law  
2 enforcement team with the ATF and local authorities.

3 THE COURT: Do you have Bates number on that?

4 MR. VILLA: For the --

5 THE COURT: For the --

6 MR. VILLA: Which part?

7 THE COURT: The proposition that this person, Cope,  
8 was on the investigation team?

9 MR. VILLA: I mean, Your Honor, he's on the  
10 witness -- the government's witness list.

11 THE COURT: I understand that, but you said he was  
12 part of the investigation team. And so I'm trying -- or he or  
13 she. So I'm trying to figure out where you're -- what the  
14 source is for that information.

15 MS. DE SALES BARRETT: Your Honor, we have received  
16 in discovery -- as a result of the *Jencks* material on  
17 Mr. Cope, we have received reports in *Jencks* with regard to  
18 the investigation conducted here authored by him.

19 THE COURT: All right. So then you know whether --  
20 you know, what that -- what's contained in that. I don't.

21 So anything else, then, for the record on that topic?

22 MS. STOKMAN: Judge, just from the government, I want  
23 to clear up, Cope was not part of the investigative team in  
24 this investigation.

25 The reports that are in discovery were reports

1 because he was part of the CDCR staff that responded to one of  
2 the prison murders. I believe it was the Hargrave murder that  
3 we didn't end up proving. But he was never a part of the  
4 investigative team for the federal case that's here today.

5 Uh, and in addition, as we made the argument at  
6 sidebar and the statement at sidebar, we did not have access  
7 to Timothy True's information. That came through CDCR. And  
8 so the government was not obligated to produce that.

9 I just want to close the loop that defense had  
10 Mr. True up for a recall, but they rested. They did not  
11 recall him. And I just want to make sure that's clear on the  
12 record.

13 THE COURT: All right. Anything else on this topic  
14 for the record?

15 MS. DE SALES BARRETT: Yes, Your Honor. With regard  
16 to whether or not the government has the obligation, with  
17 regard to the homicide that we're talking about, the murder of  
18 Mr. Lowrey, that particular homicide, the government is  
19 relying -- has relied for investigative purposes completely on  
20 the CDCR's investigation and the State of California's -- the  
21 investigation of that murder with the exception of any  
22 conversations that Agent Gonzalez has had with Mr. True in  
23 preparation for his testimony.

24 Mr. True testified in a probable cause hearing in the  
25 State of California. That was -- we were provided that in

1 discovery, and the entire investigation underlying that  
2 homicide was conducted by the CDCR and the District Attorney's  
3 Office and not by the government in this case.

4 The -- even the autopsy report offered into evidence  
5 with regard to this gentleman was done at the request of the  
6 state and at the request of the CDCR, not at the request of  
7 the government in this case.

8 And the only reason they have it is because they got  
9 the autopsy report in the documents that they got from the  
10 CDCR and the State of California.

11 THE COURT: Anyone else want to make comments on  
12 that? I mean, I would just note that there was evidence other  
13 than what you've described on that topic presented here as to  
14 other witnesses, but I appreciate your point.

15 All right. Has the jury -- do you know, Irma, if the  
16 jury is all here?

17 THE CLERK: They are ready.

18 THE COURT: All right. Let's go ahead and bring in  
19 the jury.

20 (Jury enters the courtroom at 8:17 a.m.)

21 THE COURT: All right. Thank you. We have all of  
22 our jury members back in their places.

23 Ladies and gentlemen, as I indicated on Friday, we  
24 are going to begin the morning with me giving you some  
25 instructions, then we're going to turn to argument of counsel

1 and a few more instructions, and then deliberation will occur  
2 at that point.

3 Like before, I do have to read the question -- the  
4 instructions to you, so if at any time you can't hear me, if  
5 I -- if you need me to repeat it, raise your hand and I will  
6 do that.

7 Members of the Jury, now that you have heard all of  
8 the evidence, it is my duty to instruct you on the law that  
9 applies to this case. A copy of these instructions will be  
10 available in the jury room for you to consult.

11 It is your duty to weigh and evaluate all the  
12 evidence in this case, and in that process, to decide the  
13 facts. It is also your duty to apply the law as I give it to  
14 you to the facts as you find them whether you agree with the  
15 law or not.

16 You must decide the case solely on the evidence and  
17 the law. You will recall that you took an oath promising to  
18 do so at the beginning of the case.

19 You should also not be influenced by any person's  
20 race, color, religious beliefs, national ancestry, sexual  
21 orientation, gender identity, gender, or economic  
22 circumstances.

23 Also, do not allow yourself to be influenced by  
24 personal likes or dislikes, sympathy, prejudice, fear, public  
25 opinion, or biases, including unconscious biases.

1           Unconscious biases are stereotypes, attitudes, or  
2 preferences that people may consciously reject but may be  
3 expressed without conscious awareness, control, or intention.

4           You must follow all these instructions and not single  
5 out some and ignore others. They are all important. Please  
6 do not read into these instructions or into anything I may  
7 have said or done as any suggestion as to what verdict you  
8 should return. That is a matter entirely up to you.

9           The indictment is not evidence. The defendants have  
10 pleaded not guilty to these charges. The defendants are  
11 presumed to be innocent unless and until the government proves  
12 the defendants guilty beyond a reasonable doubt.

13           In addition, the defendants do not have to testify or  
14 present evidence. The defendants do not have to prove  
15 innocence and the government has the burden of proving every  
16 element of the charges beyond a reasonable doubt.

17           A defendant in a criminal case has the constitutional  
18 right not to testify. In arriving at your verdict, the law  
19 prohibits you from considering any manner that the defendant  
20 did not testify.

21           Proof beyond a reasonable doubt is proof that leaves  
22 you firmly convinced the defendant is guilty. It is not  
23 required that the government prove guilt beyond all possible  
24 doubt.

25           A reasonable doubt is a doubt based upon reason and

1 common sense and is based purely on speculation -- oops,  
2 sorry. Let me start that over.

3 A reasonable doubt is a doubt based upon reason and  
4 common sense and is not based purely on speculation. It may  
5 arise from a careful and impartial consideration of all the  
6 evidence or from lack of evidence.

7 If after a careful and impartial consideration of all  
8 the evidence you are not convinced beyond a reasonable doubt  
9 that the defendant is guilty, it is your duty to find the  
10 defendant not guilty.

11 On the other hand, if after a careful and impartial  
12 consideration of all the evidence, you are convinced beyond a  
13 reasonable doubt that defendant is guilty, it is your duty to  
14 find the defendant guilty.

15 The evidence you are to consider in deciding what the  
16 facts are consist of:

17 One, the sworn testimony of any witness.

18 Two, the exhibits received in evidence.

19 Three, the facts accepted by the Court through  
20 judicial notice.

21 And four, any facts to which the parties have agreed.

22 In reaching your verdict, you may consider only the  
23 testimony and exhibits received into evidence. Certain things  
24 are not evidence and you may not consider them in deciding  
25 what the facts are. I will list them for you.

1           One, arguments and statements by the lawyers are not  
2 evidence. The lawyers are not witnesses. What they may  
3 say -- what they have said in their opening statements, what  
4 they may say in closing arguments and at other times is  
5 intended to help you interpret the evidence, but it is not  
6 evidence.

7           If the facts as you remember them differ from the way  
8 the lawyers have stated them, your memory of them controls.

9           Questions and objections by the lawyers are not  
10 evidence. Attorneys have a duty to their clients to object  
11 when they believe a question is improper under the Rules of  
12 Evidence. But you should not be influenced by the objection  
13 or the Court's ruling on it.

14           Three, testimony that is excluded or stricken or that  
15 I have instructed you to disregard is not evidence and must  
16 not be considered. In addition, some evidence may be received  
17 only for a limited purpose. When I instruct you to consider  
18 evidence only for a limited purpose, you must do so, and you  
19 may not consider that evidence for any other purpose.

20           Four, anything you may see or hear when court is not  
21 in session is not evidence even if what you have seen or heard  
22 is done or said by one of the parties or by one of the  
23 witnesses. You are to decide the case solely on the evidence  
24 received at the trial.

25           You have heard recordings that have been received in



1 evidence. Displayed to you while listening was a transcript  
2 of the recording to help you identify speakers and as a guide  
3 to help you listen to the recording. However, bear in mind  
4 that recordings are the evidence, not the transcript. If you  
5 heard something different from what appeared in the  
6 transcript, what you heard is controlling.

7 Evidence may be direct or circumstantial. Direct  
8 evidence is direct proof of a fact, such as testimony by a  
9 witness about what that witness personally saw or heard or  
10 did. Circumstantial evidence is indirect evidence, that is,  
11 it is proof of one or more facts from which one can find  
12 another fact.

13 You are to consider both direct and circumstantial  
14 evidence. Either can be used to prove any fact. The law  
15 makes no distinction between the weight to be given to either  
16 direct or circumstantial evidence. It is for you to decide  
17 how much weight to give any evidence.

18 During trial, certain charts were shown to you to  
19 help explain the evidence. These charts were not admitted  
20 into evidence and will not go into the jury room with you.  
21 They are not themselves evidence of proof or -- or proof of  
22 any facts. If they do not correctly reflect the facts or  
23 figures shown by the evidence in the case, you should  
24 disregard these charts and determine the facts from the  
25 underlying evidence.

1           You heard testimony from the following witnesses who  
2 testified about his or her opinions and the reason for the  
3 those opinions: One, Dr. Paul Gliniecki; two,  
4 Fracia Martinez; three, Daniel Ponce de Leon; four,  
5 Benjamin Mendoza; and five, Dr. Eugene Carpenter.

6           This opinion testimony is allowed because of the  
7 specialized knowledge, skill, experience, training, or  
8 education of these witnesses. Such opinion testimony should  
9 be judged like any other testimony.

10           You may accept it or reject it and give it as much  
11 weight as you think it deserves, considering the witness's  
12 knowledge, skill, experience, training, or education, the  
13 reasons given for the opinion, and all other evidence in the  
14 case.

15           In deciding the facts in this case, you may have to  
16 decide which testimony to believe and which testimony not to  
17 believe. You may believe everything a witness says or part of  
18 it or none of it.

19           In considering the testimony of any witness, you may  
20 take into account:

21           One, the opportunity and ability of the witness to  
22 see or hear or know the things testified to.

23           Two, the witness's memory.

24           Three, the witness's manner while testifying.

25           Four, the witness's interest in the outcome of the

1 case, if any.

2 Five, the witness's bias or prejudice, if any.

3 Six, whether other evidence contradicted the  
4 witness's testimony.

5 Seven, the reasonableness of the witness's testimony  
6 in light of all the evidence.

7 And eight, any other factor that bears on  
8 believability.

9 Sometimes the witness may say something that is not  
10 consistent with something else he or she said. Sometimes  
11 different witnesses will give different versions of what  
12 happened. People often forget things or make mistakes in what  
13 they remember.

14 Also, two people may see the same event but remember  
15 it differently. You may consider these differences, but do  
16 not decide that testimony is not untrue just because it  
17 differs from other testimony.

18 However, if you decide that a witness has  
19 deliberately testified untruthfully about something important,  
20 you may choose not to believe anything that witness said.

21 On the other hand, if you think the witness testified  
22 untruthfully about some things but told the truth about  
23 others, you may accept the part you think is true and ignore  
24 the rest.

25 You must avoid bias, conscious or unconscious, based

1 upon a witness's race, color, religious beliefs, national  
2 ancestry, sexual orientation, gender identity, gender, or  
3 economic circumstances in your determination of credibility.

4 The weight of the evidence as to a fact does not  
5 necessarily depend on the number of witnesses who testify.

6 What is important is how believable the witnesses  
7 were and how much weight you think their testimony deserves.

8 You've heard evidence that Robert Eversole,  
9 Brian Rapinoe, Daniel Rubin, Brandon Bannick, Lana Haley,  
10 James Field, Kaylen Chandler, Troy Clowers, and Timothy True,  
11 witnesses who have testified at this trial, each have prior  
12 convictions for felony offenses. You may consider this  
13 evidence in deciding whether or not to believe each witness  
14 and how much weight to give the testimony of that witness.

15 You've heard testimony from Brandon Bannick and  
16 James Field, witnesses who pleaded guilty to crimes arising  
17 out of the same events for which each of the defendants is on  
18 trial. Their guilty pleas are not evidence against any of the  
19 defendants. You may consider them only in determining each  
20 witness's believability.

21 You've heard testimony from Robert Eversole,  
22 Brandon Bannick, James Field, Troy Clowers, and Timothy True.  
23 Their testimony was given in exchange for favored treatment  
24 from the government in connection with this case.

25 You've heard testimony from Kaylen Chandler, a

1 witness who received immunity. That testimony was given in  
2 exchange for a promise by the government that the witness will  
3 not be prosecuted and that the testimony will not be used in  
4 any case against the witness.

5 Finally, you heard testimony from Brian Rapinoe, a  
6 witness who received compensation from the government in  
7 connection with this case.

8 For these reasons, in evaluating the testimony of  
9 these witnesses, you should consider the extent in which or  
10 whether each witness's testimony have been influenced by these  
11 factors. In addition, you should examine the testimony of  
12 these witnesses with greater caution than that of other  
13 witnesses.

14 A separate crime is charged against one or more of  
15 the defendants in each count. The charges have been joined  
16 for trial.

17 You must decide the case of each defendant on each  
18 crime charged against that defendant separately.

19 Your verdict on any count as to any defendant should  
20 not control your verdict on any other count as to any other  
21 defendant.

22 All of the instructions apply to each defendant and  
23 to each count unless an instruction states that it applies  
24 only to a specific defendant or count.

25 You've heard testimony that the defendants were

1 members of the Aryan Brotherhood. Gang membership alone  
2 without more does not prove that someone has entered a  
3 criminal agreement. As a result, you must not infer from the  
4 alleged gang membership alone without more that Mr. Clement,  
5 Mr. Johnson, or Mr. Stinson committed the crimes charged.

6 You have heard that each defendant has been convicted  
7 of a crime. You may not consider a prior conviction as  
8 evidence of guilt of the crimes for which the defendants are  
9 now on trial.

10 The indictment charges that the offenses were  
11 committed on or about or in or about certain dates. Although  
12 it is necessary for the government to prove beyond a  
13 reasonable doubt that the offense was committed on a date  
14 reasonably near the date alleged in the indictment, it is not  
15 necessary for the government to prove that the offense was  
16 committed precisely on the date charged.

17 An act is done knowingly if the defendant is aware of  
18 the act and does not act through ignorance, mistake, or  
19 accident. The government is not required to prove that the  
20 defendant knew that his or acts or omissions were unlawful.

21 You may consider evidence of a defendant's words,  
22 acts, or omissions, along with all other evidence, in deciding  
23 whether the defendant acted knowingly.

24 I will now explain to you the general law regarding  
25 conspiracies.

1           Every count has instructions. In addition to those,  
2 this instruction on conspiracies generally applies to the RICO  
3 conspiracy charged in Count 1.

4           First, beginning and ending on about the dates set  
5 forth in the counts below, there was an agreement between two  
6 or more persons to commit at least one crime as charged in the  
7 indictment and explained below.

8           And two -- or second, the defendant became a member  
9 of the conspiracy knowing of at least one of its objects and  
10 intending to help accomplish it.

11           A conspiracy is a kind of criminal partnership, an  
12 agreement of two or more persons to commit or one or more  
13 crimes. The crime of conspiracy is the agreement to do  
14 something unlawful. It does not matter whether the crime  
15 agreed on was committed.

16           For a conspiracy to have existed, it is not necessary  
17 that the conspirators made a formal agreement or that they  
18 agreed on every detail of the conspiracy.

19           It is not enough, however, that they simply met,  
20 discussed matters of common interest, acted in similar ways,  
21 or perhaps helped one another. You must find that there was a  
22 plan to commit at least one of the crimes alleged in the  
23 indictment as an object of the conspiracy with all of you  
24 agreeing as to the particular crime which the conspirators  
25 agreed to commit.

1           One becomes a member of a conspiracy by willfully  
2 participating in the unlawful plan with the intent to advance  
3 or further some objective or purpose of the conspiracy even  
4 though the person does not have full knowledge of all the  
5 details of the conspiracy.

6           Furthermore, one who willfully joins an existing  
7 conspiracy is as responsible for it as the originators. On  
8 the other hand, one who has no knowledge of a conspiracy but  
9 happens to act in a way which furthers some object or purpose  
10 of conspiracy, does not thereby become a conspirator.

11           Similarly, a person does not become a conspirator  
12 merely by associating with one or more persons who are  
13 conspirators or merely by knowing that a conspiracy exists.

14           Count 1 charges a violation of Section 1962(d) of  
15 Title 18 of the United States Code, that the defendants  
16 Kenneth Johnson, Francis Clement, and John Stinson, along with  
17 others known and unknown, knowingly and intentionally  
18 conspired with at least one other person to conduct or to  
19 participate in the conduct of the affairs of the racketeering  
20 enterprise.

21           Specifically, the indictment alleges that the  
22 enterprise is the Aryan Brotherhood, including its leaders,  
23 members, and associates. This offense is called "RICO  
24 conspiracy."

25           "RICO" refers to the Racketeer Influenced and Corrupt



1 Organizations Act found at Sections 1961 and 1962 of Title 18  
2 of the United States Code.

3 For a defendant to be found guilty of this charge,  
4 the government must prove each of the following elements  
5 beyond a reasonable doubt as to each defendant:

6 First, that the charged enterprise existed.

7 Second, the charged enterprise was or would be  
8 engaged in or its activities effected or would effect  
9 interstate or foreign commerce.

10 Third, that beginning at a time unknown, but no later  
11 than in and around 2015 and continuing to at least on or about  
12 March 1st of 2023, the defendant knowingly agreed that a  
13 conspirator was or would be employed by or associated with the  
14 enterprise.

15 Fourth, the defendant knowingly agreed that a  
16 conspirator would conduct or participate either directly or  
17 indirectly in the conduct of the affairs of the enterprise.

18 And fifth, the defendant agreed that a conspirator  
19 did or would knowingly participate in the conduct of the  
20 affairs of the enterprise through a pattern of racketeering  
21 activity; that is, a conspirator did or would commit at least  
22 two acts of racketeering activity.

23 The defendant must have been aware of the essential  
24 nature and scope of the enterprise and intended to participate  
25 in it.

1           The government is not required to prove that the  
2 defendant personally committed any act of racketeering  
3 activity or agreed to do so.

4           The government is not required to prove that the  
5 parties to or members of the conspiracy were successful in  
6 achieving any or all of the objects of the conspiracy.

7           You may consider the evidence presented of  
8 racketeering acts committed or agreed to be committed by any  
9 coconspirator in furtherance of the enterprise's affairs to  
10 determine whether the defendant knew that at least one member  
11 of the conspiracy would commit two or more racketeering acts.

12           To establish the first element of the RICO conspiracy  
13 in Count 1, the government must prove that an enterprise  
14 existed that was engaged in or had an affect on interstate  
15 commerce.

16           An enterprise is a group of people who had associated  
17 together for a common purpose of engaging in a course of  
18 conduct over a period of time.

19           This group of people, in addition to having a common  
20 purpose, must have an ongoing organization, either formal or  
21 informal. The personnel of the enterprise, however, may  
22 change and need not be associated with the enterprise for the  
23 entire period alleged in the indictment.

24           This group of people does not have to be a legally  
25 recognized entity such as a partnership or a corporation.

1 This group may be organized for a legitimate and lawful  
2 purpose or it may be organized for an unlawful purpose.

3 Therefore, the government must prove beyond a  
4 reasonable doubt that this group of people:

5 One, associated for a common purpose of engaging in a  
6 course of conduct.

7 Two, the association of these people was an ongoing  
8 formal or informal organization.

9 Three, the group was engaged in or had an effect upon  
10 interstate or foreign commerce.

11 And four, the group had longevity sufficient to  
12 permit the associates to pursue the enterprise's purpose.

13 The government need not prove that the enterprise had  
14 any particular organizational structure.

15 Interstate commerce includes the movement of goods,  
16 services, money, and individuals between states. These goods  
17 can be legal or illegal. Only a minimal effect on commerce is  
18 required and the effect need only be probable or potential,  
19 not actual.

20 It is not necessary to prove the defendant's own acts  
21 affected interstate commerce as long as the enterprise's acts  
22 had such an effect.

23 You are instructed that drug trafficking, even local  
24 trafficking, has a substantial effect on interstate commerce.

25 The government must prove that the enterprise was

1 engaged in racketeering activity. Racketeering activity means  
2 the commission of certain crimes. These include acts of  
3 murder, robbery, fraud, and drug trafficking in violation of  
4 state or federal law.

5 The government must prove beyond a reasonable doubt  
6 that the enterprise was engaged in at least one of the crimes  
7 listed above.

8 To establish a pattern of racketeering activity, the  
9 government must prove each of the following beyond a  
10 reasonable doubt:

11 One, at least two acts of racketeering were committed  
12 within a period of ten years of each other.

13 Two, the acts of racketeering were related to each  
14 other, meaning that there was a relationship between or among  
15 the acts of racketeering.

16 And three, the acts of racketeering amounted to or  
17 posed a threat of continued criminal activity.

18 With respect to the second element above, acts of  
19 racketeering are related if they embraced the same or similar  
20 purposes, results, participants, victims, or methods of  
21 commission, or were otherwise interrelated by distinguishing  
22 characteristics.

23 Sporadic, widely separated, or isolated criminal acts  
24 do not form a pattern of racketeering activity. Two  
25 racketeering acts are not necessarily enough to establish a

1 pattern of racketeering activity.

2 The RICO statute defines a racketeering act to be any  
3 of a list of certain crimes, some of which are federal crimes  
4 and some of which are state crimes.

5 I will now list the racketeering acts charged in this  
6 case and describe them.

7 The pattern of racketeering alleged in this case  
8 consists of acts involving: i, murder; ii, conspiracy to  
9 commit murder; iii, attempted murder; iv, robbery; v,  
10 conspiracy to commit robbery; vi, conspiracy to distribute and  
11 possess with the intent to distribute a controlled substance;  
12 vii, distribution of a controlled substance and intent; and  
13 viii, fraud.

14 I will now instruct you on the definition of each of  
15 these racketeering activities and -- that the leaders,  
16 members, and associates of the enterprise are alleged to have  
17 contemplated as part of their conspiracy.

18 The crime charged in Count 1 is RICO conspiracy,  
19 which is the agreement to conduct the affairs of the  
20 Aryan Brotherhood through a pattern of racketeering. No  
21 racketeering act need to have been committed or even attempted  
22 by anyone. Rather, it is sufficient that you find that the  
23 defendant knew or contemplated that one or more members of the  
24 conspiracy, not necessarily the defendant, would commit at  
25 least two acts of racketeering in furtherance of a conspiracy.

1           To convict the defendant of the RICO conspiracy  
2 offense, your verdict must be unanimous as to the racketeering  
3 activity the defendant knew or contemplated would be  
4 committed. For example, at least two acts of murder,  
5 conspiracy to commit murder, robbery, conspiracy to commit  
6 robbery, drug trafficking, fraud, or one of each or any  
7 combination thereof.

8           I will instruct you on the specific racketeering acts  
9 alleged in this case.

10          To prove that a defendant is guilty of murder under  
11 California law, the government must prove that:

12           One, the defendant committed an act that caused the  
13 death of the alleged victim.

14           And two, when the defendant acted, he had a state of  
15 mind called malice aforethought.

16           The defendant has malice aforethought if he  
17 unlawfully intended to kill.

18           Malice aforethought does not require hatred or ill  
19 will toward the victim. It is a mental state that must be  
20 formed before the act that causes death is committed. It does  
21 not require deliberation or the passage of any particular  
22 period of time.

23           An act causes death if the death is the direct,  
24 natural, and probable consequence of the act and the death  
25 would not have happened without the act.

1           A natural and probable consequence is one that a  
2 reasonable person would know is likely to happen if nothing  
3 unusual intervenes. In deciding whether a consequence is  
4 natural and probable, consider all of the circumstances  
5 established by the evidence.

6           To prove that a defendant is guilty of conspiracy to  
7 commit murder under California law, the government must prove  
8 that:

9           One, the defendant intended to agree and did agree  
10 with one or more persons to intentionally and unlawfully kill.

11           Two, at the time of the agreement the defendant and  
12 one or more persons in the conspiracy intended that one or  
13 more of them would intentionally and unlawfully kill.

14           Three, one of the persons committed at least one  
15 overt act alleged to have accomplish the killing.

16           And four, at least one of these overt acts was  
17 committed in California.

18           To decide whether the defendant committed this overt  
19 act, consider all of the evidence presented about the overt  
20 act.

21           Conspiracy to commit murder requires an intent to  
22 kill.

23           The members of the alleged conspiracy must have an  
24 agreement and intent to commit murder. It is not necessary  
25 that any of the members of the alleged conspiracy actually met

1 or came to a detailed or formal agreement to commit the crime.

2 An agreement may be inferred from the conduct if you  
3 conclude that members of the alleged conspiracy acted with a  
4 common purpose to commit the crime.

5 An overt act is an act by one or more of the members  
6 of the conspiracy that is done to help accomplish the  
7 agreed-upon crime.

8 The overt act must happen after defendant has agreed  
9 to commit the crime. The overt act must be more than an act  
10 of agreeing or planning to commit the crime, but it does not  
11 have to be a criminal act itself.

12 A member of a conspiracy does not have to personally  
13 know the identity or roles of all the members of the  
14 conspiracy.

15 To prove that a defendant is guilty of attempted  
16 murder under California law, the government must prove that:

17 One, the defendant took at least one direct but  
18 ineffective step toward killing another person.

19 And two, the defendant intended to kill that person.

20 A direct step requires more than merely planning or  
21 preparing to commit murder or obtaining or arranging for  
22 something needed to commit murder. A direct step is one that  
23 goes beyond planning or preparation and shows that a person is  
24 putting his or her plan into action. A direct step indicates  
25 a definite and unambiguous intent to kill. It is a direct



1 movement toward the commission of a crime after preparations  
2 are made. It is an immediate step that puts the plan in  
3 motion so that the plan would have been completed if some  
4 circumstance outside the plan had not interrupted the attempt.

5 To prove that a defendant is guilty of soliciting  
6 another person to commit murder under California law, the  
7 government must prove that:

8 One, the defendant requested or asked another person  
9 to commit or join in the commission of murder.

10 Two, the defendant intended that the crime of murder  
11 be committed.

12 And three, the other person received the  
13 communication containing the request.

14 To prove that a defendant is guilty of robbery under  
15 California law, the government must prove that:

16 One, the defendant took property that was not his  
17 own.

18 Two, the property was in the possession of another  
19 person.

20 Three, the property was taken from the other person  
21 or his or her immediate presence.

22 Four, the property was taken against that person's  
23 will.

24 Five, the defendant used force or fear to take the  
25 property or to prevent the person from resisting.

1           And six, when the defendant used force or fear, he  
2 intended to deprive the owner of the property permanently or  
3 to remove the property from the owner's possession for so  
4 extended a period of time that the owner would be deprived of  
5 a major portion of the value or enjoyment of the property.

6           A person takes something when he or she gains  
7 possession of it and moves it some distance. The distance  
8 moved may be short.

9           Fear, as used here, means fear of injury to the  
10 person himself or herself.

11           An act is accomplished by fear if the other person is  
12 actually afraid. The other person's actual fear may be  
13 inferred from the circumstances.

14           Property is within a person's immediate presence if  
15 it is sufficiently within his or her physical control that he  
16 or she could keep possession of it if not prevented by force  
17 or fear.

18           An act is done against a person's will if that person  
19 does not consent to the act. In order to consent, a person  
20 must act freely and voluntarily and know the nature of the  
21 act.

22           To prove that a defendant is guilty of attempted  
23 robbery under California law, the government must prove that:

24           One, the defendant took a direct or ineffective step  
25 toward committing robbery as defined in the previous

1 instruction.

2 And two, the defendant intended to commit robbery.

3 A direct step requires more than merely planning or  
4 preparing to commit or obtaining or arranging for something  
5 needed to commit.

6 A direct step is one that goes beyond planning or  
7 preparation and shows that a person is putting his or her plan  
8 into action. A direct step indicates a definite and  
9 unambiguous intent to commit. It is a direct movement toward  
10 the mission of a crime after preparations are made. It is an  
11 intermediate step that puts the plan in motion so that the  
12 plan would have been completed if some circumstance outside  
13 the plan had not interrupted the attempt.

14 To prove that a defendant is guilty of conspiracy to  
15 commit robbery under California law, the government must prove  
16 that:

17 One, the defendant intended to agree and did agree  
18 with one or more persons to commit robbery.

19 Two, at the time of the agreement, the defendant and  
20 one or more persons in the conspiracy intended that one or  
21 more of them would commit robbery.

22 Three, one of the persons committed at least one  
23 overt act alleged to accomplish the taking of property.

24 And four, at least one of these overt acts was  
25 committed in California.

1           To decide whether the defendant committed this overt  
2 act, consider all of the evidence presented about the overt  
3 act.

4           Conspiracy to commit robbery requires an intent to  
5 commit robbery.

6           The members of the alleged conspiracy must have had  
7 an agreement and intent to commit robbery. It is not  
8 necessary that any of the members of the alleged conspiracy  
9 actually met or came to a detailed or formal agreement to  
10 commit that crime.

11           An agreement may be inferred from conduct if you  
12 conclude that members of the alleged conspiracy acted with a  
13 common purpose to commit the crime.

14           An overt act is an act by one or more of the members  
15 of the conspiracy that is done to help accomplish the  
16 agreed-upon crime.

17           The overt act must happen after the defendant has  
18 agreed to commit the crime. The overt act must be more than  
19 the act of agreeing or planning to commit the crime, but it  
20 does not have to be a criminal act itself.

21           A member of a conspiracy does not have to personally  
22 know the identity or roles of all the other members.

23           To prove the defendant is guilty of conspiracy to  
24 distribute or possess with the intent to distribute a  
25 controlled substances under federal law, the government must

1 prove that:

2 One, there was an agreement between two or more  
3 persons to distribute and possess with the intent to  
4 distribute methamphetamine or fentanyl.

5 And two, the defendant joined in the agreement  
6 knowing of its purpose and intending to help accomplish that  
7 purpose.

8 To distribute means to deliver or transfer possession  
9 of methamphetamine or fentanyl to another person, with or  
10 without any financial interest in that transaction.

11 To possess with the intent to distribute means to  
12 possess with the intent to deliver or transfer possession of  
13 methamphetamine or fentanyl to another person, with or without  
14 any financial interest in the transaction.

15 To prove that a defendant is guilty of attempt to  
16 distribute or control substance -- a controlled substance  
17 under federal law, the government must prove that:

18 One, the defendant intended to distribute  
19 methamphetamine or fentanyl.

20 And two, the defendant did something that was a  
21 substantial step toward committing the crime.

22 A substantial step is conduct that strongly  
23 corroborated a defendant's intent to commit the crime.

24 To constitute a substantial step, the defendant's  
25 acts or actions must unequivocally demonstrate that the crime

1 will take place unless interrupted by independent  
2 circumstances.

3 Mere preparation is not a substantial step toward  
4 committing the crime.

5 To prove that the defendant is guilty of fraud in  
6 connection with identification documents under federal law,  
7 the government must prove that:

8 One, the defendant knowingly possessed an  
9 identification document.

10 Two, the identification document was or appeared to  
11 be an identification document of the Department of Motor  
12 Vehicles, the DMV.

13 Three, the identification document was produced  
14 without lawful authority.

15 And four, the defendant knew that the identification  
16 document was produced without lawful authority.

17 Identification document means a document made or  
18 issued by or under the authority of the United States  
19 government, a state, political division of a state, a  
20 sponsoring entity of an event designed as a special event of  
21 national significance, a foreign government, political  
22 subdivision of a foreign government, an international  
23 governmental or an international quasi-governmental  
24 organization which, when completed with information concerning  
25 a particular individual, is of a type intended or commonly

1 accepted for the purpose of identification of individuals.

2 To prove that a defendant is guilty of mail fraud  
3 under federal law, the government must prove that:

4 One, the defendant knowingly participated in a scheme  
5 or plan to defraud for the purposes of obtaining money or  
6 property by means of false or fraudulent pretenses,  
7 representations, or promises.

8 Two, the statements made as part of the scheme were  
9 material; that is, they had a natural tendency to influence or  
10 were capable of influencing a person to part with money or  
11 property.

12 Three, the defendant acted with the intent to  
13 defraud, that is, the intent to deceive and cheat.

14 And four, the defendant used or caused to be used the  
15 mails to carry out or attempt to carry out an essential part  
16 of the scheme.

17 A mailing is caused when one knows that the mails  
18 will be used in the ordinary course of business or when one  
19 can reasonably foresee such use. It does not matter whether  
20 the material mailed was itself false or deceptive so long as  
21 the mail was used as part of the scheme, nor does it matter  
22 whether the scheme or plan was successful or that any money or  
23 property was obtained.

24 If you decide that the defendant was a member of a  
25 scheme to defraud and that the defendant had the intent to

1 defraud, the defendant may be responsible for other  
2 co-schemers' actions during the course of and in furtherance  
3 of the scheme, even if the defendants did not know what the  
4 other co-schemers said or did.

5 For the defendant to be guilty of an offense  
6 committed by a co-schemer in furtherance of the scheme, the  
7 offense must be one that the defendant could reasonably  
8 foresee as a necessary and natural consequence of the scheme  
9 to defraud.

10 A person may be found guilty of a crime in two ways:

11 One, he may have directly committed the crime. I  
12 will call that person the perpetrator.

13 Two, he may have aided and abetted a perpetrator who  
14 directly committed the crime.

15 A person is guilty of a crime whether he or she  
16 committed it personally or aided and abetted the perpetrator.

17 Under California law, to prove that a defendant is  
18 guilty of a crime based on aiding and abetting that crime, the  
19 government must prove that:

20 One, the perpetrator committed the crime.

21 Two, the defendant knew that the perpetrator intended  
22 to commit the crime.

23 Three, before or during the commission of the crime  
24 the defendant intended to aid and abet the perpetrator in  
25 committing the crime.



1           And four, the defendant's words or conduct did, in  
2 fact, aid and abet the perpetrator's commission of the crime.

3           Someone aids and abets a crime if he or she knows of  
4 the perpetrator's unlawful purpose and he or she specifically  
5 intends to and does, in fact, aid, facilitate, promote,  
6 encourage, or instigate the perpetrator's commission of that  
7 crime.

8           If all of these requirements are proved, the  
9 government does not need to actually have been present when  
10 the crime was committed to be guilty as an aider and abettor.

11           If you conclude that defendant was present at the  
12 scene of the crime or failed to prevent the crime, you may  
13 consider that fact in determining whether the defendant was an  
14 aider and abettor; however, the fact that a person is present  
15 at the scene of a crime or fails to prevent the crime does not  
16 by itself make him or her an aider or abettor.

17           Counts 2, 3, 4, 5, and 6 charge certain defendants  
18 with committing a crime of violence, specifically, murder and  
19 aid of racketeering in violation of Title 18, United States  
20 Code Section 1959(a)(1).

21           For a defendant to be found guilty of that charge,  
22 the government must prove each of the following elements  
23 beyond a reasonable doubt:

24           One, on or about the time period described in each of  
25 Counts 2 through 6, an enterprise effecting interstate

1 commerce existed.

2 Two, the enterprise engaged in racketeering activity.

3 Three, the defendant committing or aided and abetted  
4 the following crime of violence: murder, as defined in  
5 earlier instructions under California law.

6 And four, the defendant's purpose in committing or  
7 aiding and abetting that murder was to gain entrance to or to  
8 maintain or increase his or another person's position in the  
9 Aryan Brother enterprise -- I'm sorry, Aryan Brotherhood  
10 enterprise.

11 It is not necessary for the government to prove that  
12 his motive was a sole purpose or even the primary purpose of  
13 the defendant in committing the charged murder. You need only  
14 find that gaining entrance to or maintaining or increasing his  
15 or another person's position in the enterprise was a  
16 substantial purpose of the defendant or that he committed the  
17 charged crime as an integral aspect of membership in the  
18 enterprise. An incidental motivation, however, is not enough.

19 In determining the defendant's purpose in committing  
20 the murder, you must determine what he had in mind. Since you  
21 cannot look into a person's mind, you have to determine  
22 purpose by considering all the fact and circumstances before  
23 you.

24 The specific murders alleged in this case are listed  
25 below.

1           In deciding each count, you must make a separate  
2 determination as to each count as well as each defendant.

3           As to Count 2, the indictment alleges that  
4 Defendants Kenneth Johnson and Francis Clement aided and  
5 abetted the murder of Allan Roshanski on or about October 4th  
6 of 2020.

7           As to Count 3, the indictment alleges that the  
8 Defendants Kenneth Johnson and Francis Clement aided and  
9 abetted the murder of Ruslan Meg- -- okay, I'm just going to  
10 spell it. M-E [sic] -G-O-M-E-D-G-A-O-Z-H-I-E-V on or about  
11 October 4th of 2020.

12           As to Count 4, the indictment alleges that  
13 Defendant Francis Clement aided and abetted the murder of  
14 Michael Brizendine on or about February 22nd of 2022.

15           As to Count 5, the indictment alleges that  
16 Defendant Francis Clement aided and abetted the murder of  
17 Ronald Ennis on or about March 8th of 2022.

18           As to Count 6, the indictment alleges that  
19 Defendant Francis Clement aided and abetted the murder of  
20 James Yagle on or about March 8th of 2022.

21           Pursuant to Section 2(a) of Title 18 of the  
22 United States Code, a defendant may be found guilty of murder  
23 in aid of racketeering as charged in Counts 2, 3, 4, 5, and 6,  
24 even if he personally did not commit the act or acts  
25 constituting the crime, but aided and abetted the commission

1 of the act or acts.

2 To aid and abet means to intentionally help someone  
3 else commit a crime.

4 To prove a defendant guilty of murder in aid of  
5 racketeering by aiding and abetting, the government must prove  
6 each of the following beyond a reasonable doubt:

7 One, someone other than the defendant committed  
8 murder in aid of racketeering as defined in the previous  
9 instruction.

10 Two, the defendant aided, counselled, commanded,  
11 induced, or procured that person with respect to at least one  
12 element of murder in aid of racketeering.

13 Three, the defendant acted with the intent to  
14 facilitate murder in aid of racketeering.

15 And four, the defendant acted before the crime was  
16 completed by the other person.

17 It is not enough that the defendant merely associated  
18 with the person committing the crime or unknowingly or  
19 unintentionally did things that were helpful to that person or  
20 was present at the scene of the crime.

21 The evidence must show beyond a reasonable doubt that  
22 the defendant acted with the knowledge and intent of helping  
23 that person commit murder in aid of racketeering.

24 A defendant acts with the intent to facilitate the  
25 crime when the defendant actively participates in a criminal

1 venture with advanced knowledge of the crime.

2 The government is not required to prove precisely  
3 which defendant acted -- actually committed the crime and  
4 which defendant aided and abetted.

5 All right. Ladies and gentlemen, we're now going to  
6 start the closing arguments. Before we do that, why don't we  
7 stand up and take a quick stretch and we'll let the government  
8 set up.

9 All right. Is counsel for the government prepared to  
10 begin?

11 MS. STOKMAN: Yes.

12 THE COURT: All right.

13 MS. STOKMAN: The Aryan Brotherhood is about power,  
14 money, and control. You heard that throughout this trial, and  
15 all of those go hand in hand.

16 The defendants in trial here, John Stinson,  
17 Kenneth Johnson, and Francis Clement, were all AB brothers,  
18 made members, who exerted control over white inmates within  
19 the prison system and whites on the street.

20 The power is inherent in the AB. You heard from  
21 witnesses that this is how the AB operates. With that power  
22 comes control, control over what AB associates do and control  
23 over the decisions those AB associates make.

24 You heard from numerous witnesses that if you don't  
25 fall in line with AB rules, if you don't follow AB orders, you

1 can be up to be hurt or even killed. Obeying an order from an  
2 AB member is nonnegotiable.

3 You heard that violence is very important because  
4 these defendants were in prison. Violence is how the  
5 defendants were able to maintain that control. So they used  
6 contraband cell phones to conduct AB business and to order AB  
7 orders.

8 Ultimately, control was important because the  
9 defendants were relying on other people to make money. And  
10 money was a big goal.

11 With power and violence, the AB exerted control and  
12 fear over those working on their behalf in order to keep the  
13 money flowing. Because that, at the end of the day, is what  
14 kept the enterprise going.

15 It gave the defendants what they needed in prison,  
16 including the phones that they were using to communicate with  
17 the outside world, with other AB brothers in other prisons,  
18 and more importantly, with the people that they were giving  
19 orders to to commit the crimes for them.

20 I'm going to do a couple of things during my time up  
21 here with you. I'm going to tell you a little bit more about  
22 the law as the Judge read it to you. And I'll walk you  
23 through how what you heard during this trial proves the  
24 elements of the law and the guilt of these defendants beyond a  
25 reasonable doubt.

1           So let's talk about the charges.

2           Count 1 is the RICO conspiracy. Count 2 and 3 are  
3 the murder in aid of racketeering charges that pertain to the  
4 Lomita murders. Count 4 is the murder and aid of racketeering  
5 charge for the Lancaster murder. And Counts 5 and 6 are the  
6 murder and aid of racketeering charges for the Pomona murders.

7           Count 1 is the conspiracy to participate in a  
8 racketeering enterprise, and what you've heard over and over  
9 from numerous witnesses in this case is the RICO conspiracy.

10          The enterprise is the Aryan Brotherhood, the AB. As  
11 my colleague told you at the beginning of this trial,  
12 everything you heard here falls under this charge.

13          In order for you to find the defendants guilty of  
14 Count 1, and all three of them are charged in this, you have  
15 to find the five elements that the Judge read to you.

16          So what are elements? Elements are just a  
17 requirement that the government has to prove beyond a  
18 reasonable doubt in order to find the defendants guilty.  
19 These are requirements, they're steps. So I'm going to walk  
20 you through what to do with those requirements, with those  
21 elements. But basically, you go through each element one at a  
22 time.

23          First element, once you've found that the government  
24 has met its burden and the evidence has shown you that the  
25 first element has been proven, you check that element off and

1 you move to the next one.

2           Once you've gone through all elements of the crimes  
3 charged here in Counts 1 through 6, you've found the defendant  
4 guilty of those -- of those crimes.

5           So let's talk about how the evidence proves each of  
6 the elements beyond a reasonable doubt. The first element  
7 here is that the charged enterprise, the Aryan Brotherhood,  
8 existed. This just means that the Aryan Brotherhood exists  
9 and it existed during the time of the conspiracy.

10           You heard a lot of evidence that the AB exists. It's  
11 a white gang. A group of white people who associate together  
12 to commit crimes over time. And here, the enterprise is more  
13 than just the AB made members. It's the associates on the  
14 streets and the white inmates that the AB controls in the  
15 prison system.

16           The enterprise is the gang. It's the AB members and  
17 those associates, the foot soldiers on the street, and the  
18 people who testified before you about what the AB was.

19           AB members are intertwined despite being incarcerated  
20 in various locations. You heard that. They're using  
21 contraband cell phones to communicate, and these defendants  
22 were doing the same. Those phones allowed them to know what  
23 other AB members and other AB associates were doing.

24           You heard that there are three AB brothers that form  
25 a three-man council and that these brothers had a more



1 influential role than the other AB brothers. But again, the  
2 enterprise is just this gang, AB members and the people who  
3 you heard from and the other associates who were doing the  
4 work for them.

5           You also heard about common purposes of the AB, the  
6 money, the power, the control, and about rules and codes of  
7 conduct, that there's absolutely to be no cooperation with law  
8 enforcement, that you're not supposed to lie to an AB brother,  
9 that you have to follow orders. Again, following those orders  
10 is nonnegotiable because you've seen what happens when you  
11 don't.

12           You heard about the expectation about making money  
13 and how a third of the proceeds when money is made within the  
14 prison system go back to AB brothers. And also, that portions  
15 of the money made outside prison go back to them as well.

16           But mostly, you heard about an expectation of  
17 violence. You're expected to commit violence when asked when  
18 you're part of this gang.

19           You heard that from multiple witnesses and you heard  
20 it from Robert Eversole and Daniel Rubin, that violence is  
21 used for intimidation, for that fear, because that's a control  
22 tool.

23           Violence is used to keep other whites in check, to  
24 make examples of the people who disobey the AB rules and their  
25 orders, and then you heard about that unquestionable automatic

1 violence against certain individuals like people who cooperate  
2 with law enforcement.

3 Mostly, you heard that the rules of the AB are  
4 enforced through violence. And you saw many examples of this  
5 and heard a lot of testimony about how the AB rules are  
6 enforced through violence, that the gang commits violence with  
7 a purpose.

8 And you heard that because the rules are enforced  
9 through violence, orders from AB members like the defendants  
10 are nonnegotiable. They must be followed or that violence is  
11 used against those who disobey the orders and the rules.

12 The murders that you heard about are some examples of  
13 rules being enforced through violence because the victims in  
14 those murders broke some AB rule. They either owed money to  
15 the AB, they failed to follow an AB order, they lied to an AB  
16 brother, or they lost money.

17 So that takes care of Element 1, Aryan Brotherhood  
18 exists. And you heard a lot of testimony that it did.

19 Let's look at Element 2, that the Aryan Brotherhood  
20 was engaged in activity that effected interstate or foreign  
21 commerce. The Judge told you that that just means it's the  
22 movement of items between states. And you heard that drug  
23 trafficking has a substantial effect on interstate commerce  
24 even when it's done locally.

25 The fact that the AB engages in drug trafficking is

1 enough alone to satisfy this element. You heard about how the  
2 AB deals drugs within the prison and how they deal drugs on  
3 the outside of the prison.

4 You saw the fentanyl that James Field was trafficking  
5 for AB member Waylon Pitchford. This is enough to meet that  
6 element. But you also heard more.

7 You heard that there was drug trafficking going on  
8 from California to other states, crossing state lines. And  
9 also, Robert Eversole told you that when he was doing that, he  
10 was sending drugs to other states, he was also bringing  
11 firearms back into California, crossing states lines. This is  
12 enough to meet this element.

13 But finally, you also heard that cell phones were  
14 being used a lot. And the use of cell phones is a way to use  
15 interstate commerce. It goes with interstate commerce because  
16 they are a facility of interstate commerce. So any one of  
17 these things satisfies this element and you can check off  
18 Element 2.

19 The third element is that the defendant knowingly  
20 agreed a conspirator was or would be associated with the  
21 enterprise. This just means that the defendant was associated  
22 with the enterprise, with the gang.

23 For this element all you need to find is that the  
24 defendant agreed that someone else, in other words, a  
25 coconspirator, another AB associate, another AB member, was

1 associated with the AB. But the evidence proves so much more  
2 to you.

3 The evidence proved that all three defendants  
4 themselves were part of this gang because all three defendants  
5 are, in fact, made members of the Aryan Brotherhood. They ran  
6 this gang. And you heard this from multiple witnesses from  
7 different street gangs, different parts of the state,  
8 different prison experiences, that don't all know one another.

9 So let's talk a little bit about conspiracy.

10 Conspiracy is when two or more people agree to do  
11 something illegal. The crime is the agreement. And the  
12 defendants became members of the conspiracy to participate in  
13 the conduct of the affairs of the Aryan Brotherhood, which  
14 simply means that they agreed to be a part of this gang to  
15 carry out gang business.

16 Here are other coconspirators that you heard about  
17 during the trial. These are the AB brothers ordering and the  
18 AB associates carrying out the crimes. They were all part of  
19 the conspiracy. And these aren't all of them. These are just  
20 some names you heard over and over.

21 The top line are the AB brothers you heard about,  
22 some of them. The second line, you either heard from or heard  
23 about. These individuals were individuals that themselves  
24 were up for membership or wanting to become AB brothers. And  
25 then people on the bottom line, like Brandon Bannick,

1 Evan Perkins, Justin Gray, you didn't hear that they  
2 necessarily wanted to become an AB brother, but they were part  
3 of the foot soldiers on the street. They were part of this  
4 gang as well.

5 All the AB associates that you heard from testify  
6 that they knew who the AB was, they knew they were working for  
7 the AB, and they knew how the AB worked. They were part of  
8 the gang. And the defendants knew this as well because they  
9 are made members. This is their gang.

10 You heard a lot of witnesses tell you that  
11 John Stinson is an AB brother. You also heard that  
12 John Stinson was part of the three-man council, or the  
13 commission.

14 You heard that from Daniel Rubin, who spoke with  
15 Stinson about it, and from Robert Eversole, from Troy Clowers,  
16 and from James Field.

17 This meant that John Stinson was aware of what other  
18 AB brothers and what other AB associates were doing.

19 You also heard that John Stinson knew what other  
20 coconspirators in this gang were doing because they were  
21 working for him, like Troy Clowers, Daniel Rubin,  
22 Brian Rapinoe, and, in fact, that John Stinson sponsored  
23 Clowers and Rubin for membership, as well as Andrew Collins,  
24 Misfit, who did become a member.

25 You also heard from a lot of witnesses that

1 Francis Clement, or Frank, is an AB member.

2 You also heard that Frank had coconspirators or other  
3 AB associates working for him, such as Robert Eversole,  
4 Brandon Bannick, Justin Gray, James Field, and Timothy True.

5 Defendant Kenneth Johnson, who you heard goes by the  
6 nickname Kenwood, you also heard a lot of witnesses tell you  
7 that he's an AB brother and that he had other AB associates  
8 and coconspirators working for him, like Eversole,  
9 Evan Perkins, Gray, Bannick, and True.

10 So that checks off the third element.

11 Let's look at the fourth, that the defendant  
12 knowingly agreed a conspirator would conduct or participate in  
13 the affairs of the enterprise.

14 This just means that the defendant participated in  
15 the AB business, gang business, or the defendant agreed that a  
16 coconspirator or one of these other people who's a part of  
17 this gang would participate in that gang business.

18 The evidence showed you that the defendants  
19 themselves participated in the AB business, but they also knew  
20 other people were participating as well.

21 So some of that testimony and evidence that you saw  
22 during the course of this trial as it pertains to  
23 John Stinson's conduct, you heard wiretap calls that show that  
24 he was involved in the enterprise's affairs, that he was part  
25 of the gang business. Those calls show that he had knowledge

1 of the AB crimes and what other AB members were doing.

2 For example, you heard a wiretap call in Exhibit 1810  
3 where John Stinson informed the other AB brothers on the call  
4 that an individual called Trigger got his rock, that he had  
5 become a made member. The rock is a shamrock.

6 Stinson said during that call that he made that  
7 happen. Also in that same call, Stinson wanted other  
8 AB brothers to find out if an individual named Bobby Stockton  
9 was a snitch.

10 That conference call between AB brothers about AB  
11 business also included a discussion about an individual that  
12 Defendant Kenneth Johnson told other AB brothers "needed to  
13 put down a real one," which Rubin told you means kill someone.

14 You hear it in these calls and in John Stinson's own  
15 voice that he's aware of and involved in the activities of the  
16 gang.

17 He holds a higher status in this gang, as you heard  
18 from many witnesses who testified before you, and of course he  
19 knows the gang business. He's directing others to conduct it,  
20 and he's ordering the investigation of someone he thinks might  
21 be a snitch in that call that you heard.

22 You also heard extensive evidence about  
23 Francis Clement's conduct, his dealings with AB business. You  
24 heard about the murders that he ordered, that he was part of  
25 the Hollywood robbery, that he was ordering assaults, and that

1 he was involved in drug trafficking.

2           You also heard that Defendant Kenneth Johnson himself  
3 was involved in the gang business. He was involved in drug  
4 trafficking with various witnesses that you heard from. He  
5 was involved with EDD fraud, he ordered murders, and, in fact,  
6 you heard that one of Frank's connections when he was trying  
7 to get Brian Rapinoe drugs was one of Kenwood's connections.  
8 He was involved personally in the AB business.

9           So that checks off Element Number 4.

10           Let's go to the fifth element. This is that the  
11 defendant agreed that a conspirator would participate in the  
12 conduct and the affairs of the Aryan Brotherhood through a  
13 pattern of racketeering, a pattern of racketeering activity,  
14 which the Judge told you just means committing certain crimes  
15 that relate to each other and are carried out over a certain  
16 period of time.

17           You'll hear, and you heard, that those crimes are  
18 what you learned about during the course of this trial: the  
19 drug trafficking, the murders, the robberies, the fraud. They  
20 were carried out by AB brothers and associates over the period  
21 of time that you heard about during the trial.

22           To summarize those crimes, you heard about murders.  
23 The murders are racketeering activity. The double murder in  
24 Lomita, the Lancaster murder, the double murder in Pomona, and  
25 the prison murder you heard about where they killed



1 Brandon Lowrey.

2 But also part of the acts that you heard the Judge  
3 tell you that are racketeering activities acts are: The  
4 Hollywood robbery; the drug trafficking, in the prison, to  
5 other states; the fentanyl that James Field was trafficking  
6 for Waylon Pitchford; the methamphetamine that  
7 Defendant Clement was trying to traffic with Brian Rapinoe.  
8 You heard about John Stinson trafficking drugs with  
9 Daniel Rubin to Tennessee.

10 You also heard about fraud, EDD fraud, identification  
11 fraud, and conspiracies to murder. These are all racketeering  
12 acts that you can find under that fifth element.

13 The evidence shows you and has proven to you that all  
14 of these defendants have met all five elements of Count 1,  
15 that the evidence has proven beyond a reasonable doubt that  
16 they are guilty of participating in a RICO conspiracy.

17 So we talked about, then, Count 1, but I want to go  
18 into a little bit more detail on the murders because those are  
19 also charged in Counts 2 through 6, the murders in aid of  
20 racketeering.

21 You heard on October 4th, 2020, Allan Roshanski and  
22 Ruslan Magomedgadzhiev were shot once in the head.

23 You heard that Kenneth Johnson and Francis Clement  
24 ordered the hit because Roshanski disrespected the AB. Their  
25 order enforced the gang's conduct, their code. It's an

1 example of the use of violence with a purpose.

2 So let's talk about what led up to this murder and  
3 why it occurred. Roshanski was committing EDD fraud.  
4 Lana Haley told you that, Robert Eversole told you that, and  
5 Detective Maciel told you that.

6 You also know this is true from the EDD paperwork  
7 that was found in Roshanski's possession the night he died.  
8 Roshanski wasn't part of a white gang. So what that meant is  
9 that he had to kick up, what you heard witnesses say meant  
10 giving proceeds of that criminal activity to AB brothers.

11 Because that's how it works if you're a white  
12 criminal, your money isn't yours alone because you're part of  
13 the AB gang. And those AB brothers, they are entitled to some  
14 of that money.

15 As Bannick and Eversole testified, Roshanski  
16 disrespected Frank Clement, and disrespect gets you killed, as  
17 you have learned. So Roshanski's use was no longer about  
18 making money for the AB, but rather an example to set about  
19 respect.

20 You heard that Kenneth Johnson, Kenwood, said this.  
21 He said that Roshanski was going to be smoked, which meant he  
22 was going to be murdered. You heard from testimony that  
23 Kenwood told Eversole that Roshanski was going to be killed  
24 and that Eversole needed to talk to Frank and do what Frank  
25 asked of him.

1           And after that, Frank ordered Eversole to walk  
2 Justin Gray through the murder. You heard that Justin Gray  
3 was involved with this plan because his brother owed a debt to  
4 the AB.

5           Brandon Bannick also told you that Gray's brother  
6 owed a debt to the AB. Gray's motivation was getting his  
7 brother out of trouble with the AB.

8           But you also heard from Brandon Bannick that he was  
9 in debt to Kenwood and that Frank said that if Bannick helped  
10 Gray with this murder, that Bannick's debt to Kenwood could be  
11 cleared. That was Bannick's motivation, to get himself out of  
12 trouble with the AB.

13           And Bannick's Facebook messages with Gray are  
14 consistent with his testimony that Gray told him they needed  
15 to do something. And the messages are consistent with where  
16 Gray was before the murder, at the hotel Eldorado, which  
17 Bannick told you he met Gray there and learned that Gray had  
18 been ordered to kill somebody. You know that that someone was  
19 Allan Roshanski.

20           That night cell phone forensics confirmed that  
21 Roshanski traveled from San Diego, where he lived, to Lomita.  
22 And cell phones forensics from Roshanski's and Gray's phones  
23 match the testimony about what happened that night, that  
24 Gray's phone was near the location of the murders, because  
25 Brandon Bannick told you that the Eldorado was close to where

1 the murders occurred, and the cell phone forensics confirm  
2 that, and that Gray was in contact with Roshanski up until  
3 close to when Roshanski was killed.

4 Bannick told you that while they were in the hotel,  
5 Gray received some type of communication that Roshanski was in  
6 the area. And you know this is true because the last call  
7 from the victim to Gray is in the area of the murders and  
8 right before the murders occurred.

9 The crime scene evidence also matches what  
10 Brandon Bannick told you, that Brandon pulled up and picked --  
11 and parked right in front of Roshanski's vehicle, that  
12 Roshanski was not alone, that Bannick and Gray walked up to  
13 the two men, and that Gray shot and killed both victims,  
14 leaving them dead on the side of a residential street in  
15 Lomita.

16 Bannick told you he didn't take out his gun. It  
17 stayed in the waistband of his pants because it happened too  
18 quickly. And Eversole also confirmed this is what happened,  
19 because he told you that Gray informed him that two people  
20 showed up instead of one and that Gray had to shoot them both,  
21 and Bannick didn't shoot anybody.

22 Brandon Bannick told you that Gray used a 9mm that  
23 night. And you know this is true because Detective Maciel  
24 told you that a shell casing was found that came from a 9mm  
25 gun.

1           The evidence shows you that the accounts you heard  
2 about the murder and what led to the murder are accurate.

3           You also heard that Detective Maciel found  
4 methamphetamine and EDD paperwork in Roshanski's car. The EDD  
5 documents in other people's names confirms that he was doing  
6 EDD fraud. This is consistent with the testimony you heard  
7 from Eversole and Lana Haley. The evidence tells you that  
8 their account is accurate.

9           And similar to the items that were in Roshanski's car  
10 the night when he was killed, recall that Lana Haley told you  
11 when she sold -- stole a vehicle from Roshanski in Wisconsin,  
12 he also had methamphetamine in that car. And there was a  
13 laptop and devices that I submit to you he was likely doing  
14 EDD from.

15           But also, she told you that a motorcycle helmet was  
16 in there that she later sold to Brandon Bannick and then stole  
17 off of his boat. And Brandon Bannick told you that's what  
18 happened with that helmet as well.

19           Lana Haley had a conversation with Frank after the  
20 murder, and Frank told her that they took care of that  
21 situation. And she knew what he was referring to, to Allan's  
22 death.

23           So we discussed already two of the elements that you  
24 have to find for murder in aid of racketeering. The AB  
25 existed, and they affected interstate commerce, and they

1 engaged in racketeering activity. So you can check those two  
2 elements off.

3 The third element of Counts 2 and 3 is that the  
4 defendant committed or aided and abetted the murder. And  
5 aiding and abetting, as you heard from the Judge, just means  
6 that you helped somebody or you ordered the crime.

7 And most of us think of aiding and abetting as  
8 helping commit a crime. And that's true. But as you were  
9 instructed, it also means the ordering of the crime.

10 It means that if you order someone to commit a crime  
11 and then that person goes to do it, then you've aided and  
12 abetted, and you're just as legally guilty of that murder, of  
13 that crime as the person who committed it.

14 You heard that Justin Gray was the person who  
15 committed this murder and that individuals who aided and  
16 abetted him included Brandon Bannick and Robert Eversole, but  
17 they included the defendants Kenneth Johnson and  
18 Francis Clement. Because those two AB brothers are who gave  
19 the order and who decided that this murder should occur.

20 So let's look at the fourth element now, the purpose  
21 in committing this murder or aiding and abetting this murder.

22 The Judge told you that it's not necessary for the  
23 government to prove that this was the only purpose, this  
24 maintaining status, or even the primary purpose, but only the  
25 defendants committed the murder as an integral or important

1 aspect of their membership in the gang, in the  
2 Aryan Brotherhood, and the evidence proves that to you.

3 The purpose was to maintain their position or status  
4 within the AB, to further the goals of the AB, and enforce  
5 those rules. Maintaining status is maintaining control. It's  
6 maintaining that power that comes with being an AB member.

7 The murders here were to exert fear and control over  
8 others who did not follow AB rules. Roshanski disrespected  
9 the AB, wasn't paying the AB, and so Defendants Johnson and  
10 Clement ordered and aided and abetted in his murder because  
11 they were maintaining their status and because that meant they  
12 were retaining their power and control.

13 The murder of Ruslan, because it was the result of  
14 the order to kill Roshanski, falls in line with that too.  
15 These murders are examples of AB members Johnson and Clement  
16 using violence to control what was happening on the street.

17 So you've gone through all the elements for Counts 2  
18 and 3 and the evidence has shown you that the Defendants  
19 Johnson and Clement are guilty beyond a reasonable doubt of  
20 those counts.

21 Let's look at Count 4.

22 You heard that on February 22, 2022,  
23 Michael Brizendine was shot once in the head and once in the  
24 arm. Francis Clement and Jason Weaver ordered the murder  
25 because Brizendine failed to follow AB orders and he lost AB

1 money. Their order enforced the gang's code and it's another  
2 example of the use of violence with a purpose.

3 So let's talk about Brizendine's actions and the  
4 events that led to that order.

5 James Field told you that Frank, Jason Weaver, and  
6 AB brother Waylon Pitchford were on a conference call with  
7 Field, Michael Brizendine, and others. That Frank and the  
8 other AB members wanted a robbery to occur in Hollywood.

9 And during that call, Frank told them to get  
10 construction clothes to dress like utility workers so that the  
11 victim would open the door for them.

12 Frank also sent the guys from PENI, James Yagle and  
13 Ronnie Ennis, to help. They were present for that call too.  
14 And Brandon Bannick confirmed that on the day of the robbery,  
15 Frank ordered him and Ennis and Yagle to go to Hollywood for  
16 the robbery, but before they made it there, they heard that  
17 something had happened and it was over.

18 The day after the conference call Frank sent James  
19 Field a picture of where they were to go in Hollywood. And  
20 Field told you that the photo in Exhibit 1284 is the picture  
21 Frank sent.

22 You heard from Benjamin Mendoza that this photo with  
23 the writing on it came from Waylon Pitchford's cell phone, a  
24 phone that had been seized in 2022, which is consistent with  
25 the time frame around this robbery. The photo from



1 Pitchford's phone is consistent with the testimony that  
2 Pitchford was also involved in the robbery.

3 At that house Brizendine kicked the door in. You saw  
4 photos from the house that confirm this, the footprint on the  
5 door. And Officer Hale told you that the door jamb was  
6 splintered, which is consistent with someone kicking in the  
7 door.

8 You know that what happened at the house is how James  
9 Field told you it happened. Because only someone who was  
10 there would know those details.

11 THE COURT: I'm sorry, Ms. Stokman. We're actually  
12 going to have to take a break.

13 MS. STOKMAN: Yes.

14 THE COURT: Ladies and gentlemen, let's go ahead and  
15 take a break. Let's go ahead and take 20 minutes. So that  
16 will put us -- 20 minutes-ish. Let's put us at ten minutes to  
17 10:00.

18 (Jury exits the courtroom 9:32 a.m.)

19 THE COURT: All right. Anything for the record at  
20 this time?

21 MS. STOKMAN: Nothing from the government.

22 THE COURT: All right. Let's take our break. Thank  
23 you.

24 (Recess held.)

25 THE COURT: Anything for the record at this time?

1 MS. STOKMAN: No.

2 MS. DE SALES BARRETT: No, Your Honor.

3 THE COURT: All right. Let's go ahead and bring in  
4 the jurors.

5 (Jury enters the courtroom at 9:52 a.m.)

6 THE COURT: All right. Thank you. We have everyone  
7 back.

8 Ms. Stokman, you may continue.

9 MS. STOKMAN: Yes.

10 When we breaked, we were speaking about the home  
11 during the Hollywood robbery.

12 You also heard that the victim in that home was zip  
13 tied and that the DVR system in the house had been taken out.  
14 And you know that that's true because Officer Hale told you  
15 that zip ties were found on the kitchen floor and that the DVR  
16 system that had cameras around the house had been ripped out.

17 Give me one second. Our break made technology kind  
18 of stop here. There we go.

19 Receipts were also found in Michael Brizendine's  
20 truck and his backpack, and those are consistent with the  
21 testimony you heard from James Field and Kaylen Chandler about  
22 Brizendine being in the Long Beach area around the time of the  
23 robberies.

24 Detective Aguia told you that the hotel key that  
25 Brizendine also had in his possession was the hotel in

1 Long Beach where Brizendine rented a room in the days before  
2 and surrounding the robbery and the murder. That is also  
3 consistent with the testimony you heard. And you know that  
4 that room is where that video conference call about the  
5 robbery took place.

6 This evidence shows you that the account of the  
7 robbery and the days surrounding the robbery and the murder of  
8 Michael Brizendine is accurate. The purpose of the robbery  
9 was simply for money. There was supposed to be a financial  
10 gain, which is why Frank and Weaver accused Field of burning  
11 the brothers.

12 Frank thought that Field was trying to cut him out of  
13 the profits from the robbery. And you heard that Field  
14 explained that he thought the cops were being called, that  
15 Michael Brizendine kicked the door of the house in, and that  
16 wasn't the plan.

17 For Brizendine to have caused the robbery plan to be  
18 botched is a big deal to Weaver and Clement. Brizendine  
19 failed to follow orders and he caused those AB brothers to  
20 lose money. So Frank ordered Field to take care of him, which  
21 you heard meant to kill him. And Weaver ordered the same.

22 After the calls where Field was told to kill  
23 Brizendine, he followed Brizendine to the house in the remote  
24 part of Lancaster. Brizendine was leading the way, and  
25 surveillance footage at the house confirms this. It shows two

1 vehicles entered the property, Brizendine in the lead and  
2 Field in the Mercedes behind him.

3 The orders to kill Michael Brizendine were given to  
4 Field, and James Field told you that he wanted to become an AB  
5 brother. He wanted to prove his worth. And so he took those  
6 orders and he shot and killed Michael Brizendine. He told you  
7 how he did it with Weaver on the phone by asking Brizendine to  
8 take the call from the brother.

9 When Brizendine leaned over to grab the phone, James  
10 Field shot him in the head and left Brizendine in the truck, a  
11 truck that you heard James Field had previously driven because  
12 he showed you where he had crashed the front end.

13 The photos and the autopsy and the conclusion that  
14 you heard from Dr. Gliniecki about the close-range gunshot  
15 wound to Michael Brizendine's head is consistent with the  
16 testimony that you heard about what happened.

17 The casings from a 9mm gun that were found by the  
18 Detective Aguia are also consistent with what you were told.  
19 James Field told you that he used a 9mm gun to kill  
20 Michael Brizendine. That gun was later broken down and  
21 Brandon Bannick got rid of it.

22 The same camera that showed the headlights of the two  
23 vehicles approaching the house also showed one vehicle  
24 leaving. And you know that vehicle was the Mercedes being  
25 driven by James Field. He told you that he was still on the

1 phone with Weaver and that Weaver wanted him to turn around  
2 and get pictures but he refused.

3 After the murder, you heard that Frank told Field,  
4 Good job. You did a good job.

5 So that takes care of the first -- the first two  
6 elements, again, of Count 4 because we talked about the fact  
7 that the AB exists, it's engaged in interstate commerce  
8 activity, and in racketeering activity.

9 So let's talk about the third element for this count,  
10 Count 4, that the defendant committed or aided and abetted the  
11 murder. And you heard evidence that showed you that.

12 James Field shot Michael Brizendine because he was  
13 ordered to do so by Francis Clement and Jason Weaver.

14 The fourth element, the purpose of this. Again, the  
15 government needs only to prove that the defendant committed  
16 the murder by aiding and abetting, by ordering that murder, as  
17 an integral or important aspect of the membership in the  
18 Aryan Brotherhood, and the evidence proved that to you.

19 By ordering the murder, Frank was enforcing AB rules,  
20 which again, is maintaining his status as a brother.

21 Brizendine botched a robbery and cost the AB money.  
22 That couldn't go unpunished. Maintaining order, control, and  
23 fear by killing somebody who failed to follow and carry  
24 through orders, that's why this murder was ordered. It's  
25 another example of how AB members like Francis Clement

1 controlled whites on the street with violence.

2 You've checked off now all of the elements of Count 4  
3 and you can find that Defendant Francis Clement is guilty  
4 beyond a reasonable doubt of that murder.

5 So let's talk about Counts 5 and 6.

6 You heard that on March 8, 2022, James Yagle and  
7 Ronnie Ennis were shot and killed. Francis Clement ordered  
8 the murders because Yagle and Ennis failed to follow AB  
9 orders.

10 This order enforced the gang's code and it's another  
11 example of the use of violence with a purpose.

12 Let's talk about why this was a gang murder and what  
13 led up to it.

14 Both Brandon Bannick and James Field told you that  
15 Evan Perkins was doing EDD fraud and that he owed Kenwood  
16 money from that fraud. And Frank sent James Field to Perkins'  
17 apartment to help collect that money.

18 The apartment had been ransacked. And Frank said  
19 that Ennis and Yagle weren't supposed to take anything, but  
20 you heard that they had taken items that belonged to  
21 Evan Perkins.

22 Brandon Bannick also testified to the same. He said  
23 that Ennis filled up bags with Perkins' stuff and -- when he  
24 wasn't supposed to do so, and that Frank knew about this.

25 Field and Bannick both told you the reason why Ennis

1 and Yagle were in trouble. They were blamed for what happened  
2 at Perkins' apartment during this incident, for taking  
3 Perkins' things. But also, they were in trouble for the  
4 Rick Rainey and Shifty incident, that kidnapping you heard of.

5           Brandon Bannick told you that Frank ordered violence  
6 against Rick Rainey when Rainey and Shifty were tied up in  
7 Perkins' apartment. Frank wanted Bannick and the others to  
8 kill Rick Rainey, but Rick Rainey and Shifty escaped.

9           Signal messages from Frank confirmed this, that  
10 Shifty and Double R, who I submit to you is Rick Rainey, had  
11 escaped because the PENI guys had let them do the escape. And  
12 Frank told Field that he needed to get back to Long Beach to  
13 take care of this.

14           So you heard that Field made his way back to  
15 Long Beach. And on the morning of March 8, 2022, Frank said,  
16 "We have to dome them too because I think Ronnie is a traitor,  
17 homie. Thank you."

18           The Signal message confirms that Ennis and Yagle were  
19 to be killed.

20           That night Evan Perkins, Brandon Bannick, James  
21 Field, and Matt O'Day met at the Starlite Motel in Bellflower.  
22 You know this is true because cell phone forensics for Bannick  
23 and Field's phones show them at the Starlite Motel.

24           The cell phone forensics for Evan Perkins' phone also  
25 confirmed that testimony. As does the Signal message at

1 7:36 p.m. where Field told Frank that Bannick, O'Day, and  
2 Perkins had come to the hotel. He said, "Bam just pulled up  
3 and Matt and Soldier."

4 You heard that at the motel all four of those  
5 individuals, those foot soldiers on the street, got on a call  
6 with Frank and Frank told them that Ennis had messed up and  
7 said to take care of him.

8 You heard in testimony that the four individuals then  
9 drove to Yagle's house in Perkins' Charger, a car that both  
10 Field and Bannick identified and that the Pomona detectives  
11 told you they seized when they executed that search warrant at  
12 Perkins' house.

13 Cell phone forensics confirm that Bannick, Field, and  
14 Perkins went to Yagle's house, which you were told is on  
15 Palo Verde. At the house Frank ordered both Ennis and Yagle  
16 to leave with them. Frank also said to, Smoke those dudes  
17 right now. But Field and Perkins believed it was a bad idea  
18 to kill them in front of Yagle's family at his house.

19 Before leaving, you heard that Ennis gave Field his  
20 9mm because Ennis believed he would take whatever was coming  
21 to him. They knew that something was going to happen. And  
22 Bannick confirmed that, that Ennis gave his 9mm to Field.

23 Cell phone forensics show that the phones went back  
24 to Bellflower before heading to Pomona. Perkins drove his  
25 Charger with Brandon Bannick and Ronnie Ennis in it and the



1 Mercedes was being driven by James Yagle, and James Field and  
2 Matt O'Day were in that Mercedes.

3 On the way, Frank gave orders about what to do and  
4 where to go. The Signal messages confirmed that Frank said to  
5 them, "Make sure you guys have your gun pulled, and put a seat  
6 belt on in case he tries to do some funny maneuvers in the  
7 car," referencing the fact that he knew Yagle was driving the  
8 Mercedes that Field was riding in.

9 He said, "Head towards Mount or Mount Clairmont,  
10 okay, Montclair, something like that. Okay. Head that  
11 direction. We'll find a spot along the way."

12 And cell phone forensics confirm that they left the  
13 Starlite Motel, obeying Frank's orders.

14 Then you heard that Frank was on speakerphone because  
15 he wanted to talk to Yagle. And he told Yagle, You have one  
16 chance to tell the truth or you're done.

17 Shortly after that, Frank told Yagle he was lying.  
18 And this, James Field told you, confirmed that Yagle was  
19 supposed to be killed.

20 The Signal messages also show that the plan was to  
21 kill both James Yagle and Ronnie Ennis, and that was confirmed  
22 with Frank. Frank was told that Yagle believed he was  
23 supposed to kill Ronnie. And Field told you that he told  
24 Yagle that because he wanted to gain an advantage, because  
25 remember, his ankle was broken.

1           You heard about that where he broke that ankle in  
2 that car pursuit, that car crash that happened a little bit  
3 after the Lancaster murder.

4           And Signal messages confirmed that Field would kill  
5 Yagle first and get one of them, referring to Bannick or  
6 Perkins, to kill Ronnie. And you heard testimony that Perkins  
7 was told this as well.

8           Again, this is confirmed with cell phone forensics  
9 where Perkins' phone moved from the Starlite Motel to the area  
10 of Pomona where the victims' bodies were found.

11          James Field's phone also traveled that same path.

12          Ultimately, Frank got impatient that the murder was  
13 taking so long to happen. And Signal messages confirm that he  
14 said to hurry up, to find a dark quiet place now.

15          The Signal messages show that Frank was asked if he  
16 wanted to be live during that murder, which you heard various  
17 AB brothers requested to be live during the commission of  
18 crimes so that they could see that things were happening the  
19 way they expected them to happen, again, because control is  
20 everything to them.

21          The license plate readers captured the cars traveling  
22 in tandem, and so did the cameras facing the street where the  
23 murder occurred, showing the Charger first and then the  
24 Mercedes.

25          Then the cars turned around in that cul-de-sac near

1 where the murder took place. And just four minutes after  
2 Frank said to hurry up and find a dark place -- a dark, quiet  
3 place now, both cars stopped.

4 Both Field and Bannick told you that they stopped in  
5 a really dark area. And cell phone forensics from Perkins'  
6 and Field's phones confirm this is what happened.

7 Dr. Gliniecki testified that James Yagle died from a  
8 single gunshot wound to his chest.

9 You heard that James Field shot Yagle once, and  
10 Brandon Bannick saw that happen.

11 According to cell phone forensics, the murders  
12 happened between about 10:18 and 10:21 p.m., and the Signal  
13 messages indicate that Frank was on the phone at 10:19 p.m.

14 This matches the testimony that you heard. Frank was  
15 on the phone, and he heard Ronnie screaming. This is also  
16 consistent with what Brandon Bannick told you, that Ennis was  
17 screaming after he had been shot by Perkins.

18 Dr. Gliniecki told you that Ronnie Ennis sustained  
19 multiple gunshot wounds, and you heard testimony about the  
20 same, that Perkins shot Ennis before his gun jammed, and then  
21 Bannick shot Ennis three times after that.

22 And Bannick also told you that he'd shot Ronnie Ennis  
23 three -- or a couple more times on the way as the cars drove  
24 out of that area because he saw that Ennis was still moving.

25 Both James Field and Brandon Bannick told you the

1 types of guns that everybody had that night, that Bannick was  
2 caring a 9mm, and, in fact, the casings found at the scene  
3 matched this.

4 Field initially had a .45 from Bannick, but he used  
5 Ronnie Ennis' 9mm to shoot James Yagle. And this is  
6 consistent with that 9mm bullet that was found at the scene  
7 that popped out of James Field's gun when he had to rerack it  
8 when he told you that it had jammed initially.

9 You also heard that Evan Perkins had a .40 caliber on  
10 him, and this is consistent with casings at the scene near  
11 Ennis' body. The evidence shows you that the accounts of what  
12 happened that night are correct.

13 The cameras at the market on the corner also showed  
14 the vehicles coming and then leaving. And in this shot where  
15 the Mercedes is behind the Charger on the way from the murder  
16 scene, you heard that now James Field is driving that  
17 Mercedes, that he's with Matt O'Day, and that they stopped for  
18 gas before heading back to the motel. And cell phone  
19 forensics match that, showing that they stopped at the ARCO  
20 for gas. And you also saw video surveillance that shows that  
21 as well.

22 After the murders, Frank instructed them to go back  
23 to the motel. He said that he's proud of them for committing  
24 the murders. And Field confirmed that they were okay, that  
25 they were heading back to the motel. And cell phone forensics

1 confirm that that's what they did.

2           You heard testimony that at the motel they were on a  
3 call with Frank. And you heard that when Bannick questioned  
4 why Jimbo got shot, why James Yagle was killed, Field told him  
5 that Frank had ordered it. And messages from Frank on Signal  
6 are consistent with that, that Frank gave the orders to kill  
7 both Ennis and Yagle.

8           The next morning Frank said to get rid of the  
9 evidence, the guns and the phones. And you heard that Bannick  
10 collected those guns and tossed them between rocks that went  
11 into the ocean.

12           Again, the first two elements of murder and aid of  
13 racketeering, we've talked about those. The third is that the  
14 defendant committed it by aiding and abetting.

15           You heard evidence that James Field, Evan Perkins,  
16 and Brandon Bannick are the ones who shot and killed Ennis and  
17 Yagle, but they did so under the orders of Frank Clement.

18           Here, too, the evidence proved that the purpose of  
19 defendant ordering and aiding and abetting the murders was to  
20 maintain his status in the AB. Yagle lied to Clement, which  
21 is against the rules, Ennis stole from the AB, and Frank  
22 blamed them both for not following orders. Consistent with  
23 the other murders, the purpose of ordering both Yagle and  
24 Ennis to be killed was to maintain status within the gang, to  
25 promote power, control, and fear in order to keep other whites

1 in line with the orders of the AB members.

2 The murders of these white gang members by their  
3 friends is yet another example of how AB member  
4 Francis Clement controlled white street gang members,  
5 AB associates, and coconspirators with violence.

6 And that gives you all the elements of the counts  
7 for -- sorry, for the Counts 5 and 6.

8 So once you've checked through all those elements,  
9 you can find Defendant Francis Clement guilty of Counts 5  
10 and 6.

11 Briefly, before I'm finished -- and I know it's been  
12 long, so I'm going to try to get through this. I want to talk  
13 a little bit more about that racketeering activity that  
14 Judge Thurston told you about.

15 The murders that are in Counts 2 through 6, again,  
16 are part of the acts of the racketeering activity that you can  
17 find in Count 1. But also, as we talked about earlier, are  
18 those other acts that you heard about during the course of  
19 this trial.

20 You heard about drug trafficking, extensive testimony  
21 that the AB was engaged in drug trafficking.

22 Troy Clowers told you that he was bringing drugs into  
23 the prisons, and he also had people making money from selling  
24 drugs on the outside.

25 He told you that due to his sponsorship for

1 membership by John Stinson, that some of the proceeds from  
2 what Clowers was doing in his drug trafficking venture went to  
3 Stinson.

4 Daniel Rubin also told you about smuggling drugs into  
5 the prison and making money from the sale of drugs on the  
6 street. He was giving some of those proceeds to John Stinson  
7 as well because, again, he was sponsored to become an  
8 AB brother by Stinson.

9 But he also told you that that drug trafficking  
10 venture where they were sending drugs to Tennessee, that  
11 John Stinson was a partner with him in that, that they had  
12 discussions about what was happening with the drugs going out  
13 of state, and that John Stinson confirmed that he was making  
14 money from that activity.

15 You also heard testimony from Robert Eversole about  
16 drugs being sold within the prison system and outside of the  
17 prisons. And he told you that Kenwood and Frank were getting  
18 a profit from that drug trafficking.

19 You heard also in wiretap call in Exhibit 1809,  
20 Kenwood confirmed with AB member Todd Morgan that Kenwood had  
21 people on the street dealing drugs for him, that woman Dixie  
22 that they were speaking of.

23 You also heard about AB member Waylon Pitchford  
24 ordering Field to pick up fentanyl in Bakersfield. You heard  
25 about the drugs that were in Field's vehicle when he crashed

1 it in San Fernando Valley, and you know that it was fentanyl  
2 because DEA Chemist Martinez told you that there was fentanyl  
3 powder in the brick that was recovered, and the pills, those  
4 blue pills, contained fentanyl.

5 You also heard Frank Clement in his own words  
6 arranging a drug deal with Brian Rapinoe. In the text  
7 messages that Clement sent to Rapinoe, a picture of the  
8 methamphetamine that was supposed to be purchased was provided  
9 by Frank.

10 You heard also that Rapinoe recorded the phone calls  
11 around this because he was working as a confidential informant  
12 with the ATF at that time.

13 You heard some of the calls between Frank and Rapinoe  
14 that discussed, among other things, the price of the drugs,  
15 the fact that they were coming from Kenwood's connection, and  
16 ultimately that that connection couldn't get the drugs  
17 together, and so the deal never went through.

18 You also heard from multiple witnesses that a lot of  
19 fraud was being committed by the AB, specifically, a lot of  
20 EDD fraud during 2020 when COVID hit.

21 Troy Clowers told you that he was committing fraud  
22 and that he was sending some of that money to John Stinson.  
23 He also told you that Kenwood had taught him and others how to  
24 commit EDD fraud.

25 Robert Eversole told you that he was also committing



1 EDD fraud and that whatever money he was making, some portion  
2 of it was going to Johnson and Clement.

3 You also heard from Eversole, Field, and Bannick,  
4 Evan Perkins was committing fraud. He was committing fraud  
5 for Kenwood, that EDD fraud you heard about, that Evan was  
6 making fake IDs to help facilitate that fraud, and that  
7 Perkins owed a lot of money to Kenwood because of issues that  
8 came up during that EDD fraud.

9 In Perkins' apartment, Pomona detectives found a ton  
10 of items that Perkins was using to commit the fraud, including  
11 fake IDs, credit cards in other people's names, and, in fact,  
12 they told you that Perkins was in the middle of making a fake  
13 California driver's license on the TV when they walked into  
14 that apartment and they executed that search warrant.

15 You also heard that Brian Rapinoe was committing  
16 fraud too, a lot of EDD fraud, by using the internet to fill  
17 out EDD applications, which you saw in Stinson's name. And he  
18 would receive benefit cards from this fraudulent  
19 representation through the mail from EDD. He spoke to you  
20 about how Andrew Collins gave him names and social security  
21 numbers to run EDD and how he spoke with both Collins and  
22 John Stinson about that EDD fraud.

23 Rapinoe was arrested with Stinson's EDD card in his  
24 pocket, and that caused Andrew Collins, Misfit, to accuse him  
25 of stealing.

1           In wiretap call in Exhibit 1811, it picked up a  
2 conversation between AB member Todd Morgan and Andrew Collins,  
3 and they were speaking about Rapinoe.

4           When Collins was talking about that Nazi Lowrider  
5 felon who would eventually come back to prison where Collins  
6 could finally get him because he had stolen money, that was  
7 Brian Rapinoe that he was talking about. And that call  
8 matches what Brian Rapinoe told you was going on with the EDD.

9           The EDD verification that Megan Garza also told you  
10 about confirms this, that EDD cards were going to the address  
11 that Rapinoe used in San Diego and that those contained cards  
12 for John Stinson and others.

13           Daniel Rubin also told you that he was running EDD  
14 with Collins and that he had conversation with Collins and  
15 John Stinson about the EDD.

16           He told you that in conversations with Stinson,  
17 Stinson confirmed he was making money from Collins' EDD.

18           Lastly, let's go over the conspiracies to commit  
19 murders and the other murder that you heard testimony about,  
20 because these are all acts under the racketeering activity.

21           You heard about conspiracies to kill AB members  
22 Ronnie Yandell and Andrew Collins. Daniel Rubin told you that  
23 orders came from Stinson and another member of the three-man  
24 council.

25           He told you that orders to kill an AB brother could

1 only come from members of the council. Because AB rules said  
2 that only the council could sanction the death of another AB  
3 brother.

4 So Rubin told you that he raised his hand to kill  
5 Yandell when John Stinson and that other council member said  
6 that Yandell needed to die. But he also told you that he  
7 never had the chance to kill Yandell.

8 Rubin also was on a phone call with John Stinson and  
9 another council member when Stinson ordered the death of  
10 AB member Andrew Collins.

11 Steps were taken to carry out that murder. Rubin  
12 told you that he asked around to see if any whites were on the  
13 same yard as Collins who could commit this murder but that  
14 nobody was, that there wasn't someone they could trust to do  
15 that.

16 And he told you that John Stinson also tried to see  
17 if members from other races could be involved in this plot to  
18 kill and this conspiracy to kill Andrew Collins.

19 But you heard that that also never happened, that  
20 Collins was never killed.

21 One of the last witnesses you heard from was  
22 Timothy True, and he told you about the murder of  
23 Brandon Lowrey, that it was an order from Kenneth Johnson and  
24 Francis Clement. That when they got to the Kern Valley State  
25 Prison yard, the yard had been a mess and Johnson and Clement

1 and other AB brothers wanted it cleaned up.

2 True testified that after a list was compiled of all  
3 the whites who owed money for drug debts, that  
4 Brandon Lowrey's name was on the list for owing \$500 and that  
5 at that point, Johnson and Clement ordered that Brandon Lowrey  
6 needed to be killed.

7 You heard that ultimately, Thrasher Holmeyer  
8 volunteered to kill Lowrey. And Thrasher said that he would  
9 put the area of the IE, the Inland Empire, on the map. And  
10 True told you that this was an area that he was also from  
11 where he was part of that core street gang.

12 Thrasher didn't have issues with Lowrey but was  
13 raising his hand after an AB order went out. The plan was for  
14 Thrasher to move into the same cell as Lowrey, which you heard  
15 CDC Officer Medley say that on January 24, 2016, the day that  
16 Lowrey was killed, Lowrey's cellmate was, in fact,  
17 Thrasher Holmeyer.

18 True told you about conversations with Johnson and  
19 Clement where they agreed that Holmeyer should kill Lowrey  
20 after Holmeyer volunteered. And he told you that they said  
21 this couldn't be just an assault. This had to end in death.

22 And Thrasher Holmeyer stabbed Brandon Lowrey ten  
23 times in his neck and chest. Dr. Carpenter said that one of  
24 those wounds was fatal because it immobilized Brandon Lowrey  
25 and it cut into his spinal cord.

1           After the murder, Johnson and Clement laughed about  
2 Thrasher's willingness to commit the murder.

3           Kenneth Johnson and Francis Clement ordered this  
4 murder so that an example would be made out of Lowrey to the  
5 other white inmates to fall in line with the orders of the AB  
6 and the rules that the AB had established. And True told you  
7 that's exactly what happened. That after Lowrey was killed,  
8 that the whites on his yard were in fear and were wanting to  
9 clear up their debts.

10           You heard from Robert Eversole that he was friends  
11 with Lowrey and that after Lowrey died, Eversole spoke with  
12 Thrasher. Thrasher told Eversole that he killed Lowrey and  
13 that he got him to drink moonshine and stabbed him in the neck  
14 several times.

15           The autopsy results show that morphine was in  
16 Lowrey's system. Recall that Eversole was telling you what  
17 Thrasher told him. Never said that he tried to get him to  
18 drink alcohol, and we don't know what happened for sure in  
19 that cell. But you do know from Dr. Carpenter that morphine  
20 can have the same effect, and there was morphine in the  
21 Lowrey's system.

22           Both True and Eversole told you that  
23 Thrasher Holmeyer killed Lowrey because he was told to do it.  
24 Thrasher said that the order came from Johnson and that  
25 Thrasher liked Lowrey. And True told you the same.

1           You've heard from multiple witnesses and seen  
2 evidence throughout this trial that AB usually sends your  
3 friends to kill you. And that's exactly what happened here.

4           So let's talk, just wrapping up, about that pattern  
5 of racketeering activity. You heard that you have to find  
6 that each defendant knew that two acts were going to be  
7 committed and they didn't have to be involved personally, that  
8 someone else, another AB associate, another one of those  
9 coconspirators, would be committing acts that the Judge read  
10 to you.

11           But you have so much more than that. You heard about  
12 acts that the defendants themselves were participating in as  
13 well as acts that they knew other coconspirators were  
14 participating in, such as the EDD fraud with Collins through  
15 Rapinoe for John Stinson, the Rubin EDD with John Stinson, the  
16 drug trafficking with Rubin to Tennessee.

17           John Stinson was involved in the conspiracy to murder  
18 Andrew Collins, the conspiracy to murder Ronnie Yandell, and  
19 he knew that others were committing acts as well. You heard  
20 that from Clowers, from Rubin, that he knew they were doing  
21 drug trafficking, that he knew Kenwood was drug trafficking,  
22 he knew about Eversole's activity, and the activities that  
23 were involved with fraud, assaults, and other AB business,  
24 that gang business.

25           There's more than enough for you to find that the

1 pattern of racketeering activity existed and that John Stinson  
2 was part of it.

3 Same is true for Defendant Francis Clement. You  
4 heard that he ordered the Lomita murders, which were two  
5 separate murders. He ordered the Pomona murders, which  
6 involved two separate victims. He ordered the Lancaster  
7 murder, the Hollywood robbery, the assault and murder of  
8 Rick Rainey. Drug trafficking evidence came through where he  
9 was personally involved with Brian Rapinoe.

10 You also heard that he ordered the Lowrey murder.  
11 And he also knew that others, other coconspirators, were  
12 committing fraud, drug trafficking, murders, and assaults.

13 There is enough here, again, for you to find that  
14 Francis Clement was part of the racketeering activity of the  
15 AB.

16 Finally, Kenneth Johnson. He too was part of the  
17 racketeering activity that the AB was committing, that gang  
18 business. You heard that he was personally involved in drug  
19 trafficking with Clowers, he had EDD fraud with Clowers, he  
20 ordered the Lomita murders, ordered the Lowrey murder,  
21 Evan Perkins was doing fraud for him, that he was aware and  
22 engaged in Eversole's drug trafficking, that he had drug  
23 trafficking going on his own through that woman Dixie, and  
24 that he knew others were committing fraud, assaults, drug  
25 trafficking, and murders.

1           Again, that gives you a check for all of the elements  
2   for Count 1, the RICO conspiracy. And the evidence has shown  
3   you that Defendants John Stinson, Kenneth Johnson, and  
4   Francis Clement are guilty of Count 1.

5           The evidence has also shown you that Kenneth Johnson  
6   and Francis Clement are guilty of Counts 2 and 3 and that  
7   Francis Clement is guilty of Count 4, 5, and 6.

8           Thank you.

9           THE COURT: All right. Thank you.

10          MS. FISHER-BYRIALSEN: May I have a moment?

11          THE COURT: Yes, thank you.

12          MS. FISHER-BYRIALSEN: Good morning, ladies and  
13   gentlemen. Can you hear me?

14          The problem with all these green checkmarks you've  
15   just seen in the government's closing argument is that they  
16   all depend on the witnesses they put on the stand. They all  
17   depend on these cooperators, thieves, fraudsters, drug  
18   dealers, and killers.

19          In her opening, Ms. Barrett told you that the  
20   government witnesses were going to be people that you would  
21   never trust with the keys to your house to water your plants  
22   if you were out of town. And that's exactly what you've seen  
23   here for the last five weeks.

24          There's a lot of evidence about homicides. And you  
25   saw autopsy pictures and crime scene pictures and heard from



1 cell phone experts and cops. But we're not saying that  
2 Michael Brizendine and Ruslan and Roshanski and Ennis and  
3 Yagle weren't killed and that there wasn't evidence of a  
4 robbery in Hollywood Hills or pictures of drugs that  
5 Brian Rapinoe never received.

6           However, the government has not proven that  
7 Francis Clement is the person who ordered any of those  
8 murders. Because to believe that, you have to believe the  
9 thieves, fraudsters, and drug dealers that were lined up on  
10 the stand here for you.

11           You have to believe that Mr. Clement is the person  
12 behind those Signal messages. And the only person you have  
13 telling you that is these fraudsters, thieves, drug dealers,  
14 and killers.

15           The witnesses in this case were already gang members,  
16 lifelong gang members. You heard the list: Public Enemy  
17 No. 1 Death Squad, Nazi Lowriders, COORS Family Skins,  
18 Lakeside Gangsters, Supreme Power Skins, just to name a few.

19           These gang members were committing gangs -- or sorry,  
20 were committing crimes long before they did anything for the  
21 AB. But now they have a chance to blame the AB and act like  
22 they were intimidated and are now coming forward because  
23 they've somehow seen the light and changed their lives.

24           You heard from James Field, also known as Suspect.  
25 He was a Lakeside Gangster, a Supreme Power Skins on the

1 streets. He's been in and out of the correction facilities  
2 since he was 14.

3 And during the three months you heard him testify  
4 about from when -- about December 2019 until he got arrested  
5 in his last car crash, he was on a crime spree. He was  
6 crashing cars. He broke his ankle. He was in the hospital,  
7 then got out. Crashed another car. He's moving drugs, doing  
8 robberies, killing people.

9 In this case he was charged in this RICO conspiracy  
10 with three homicides. He's the one who killed Brizendine  
11 point blank. He killed James Yagle and Ronnie Ennis. And  
12 what was his penalty? What was he facing? Three mandatory  
13 life sentences. But he got a cooperation agreement.

14 You also heard from Robert Eversole, street name  
15 Rage, also involved in the criminal justice system since he  
16 was 7 or 8 years old.

17 And you saw him sit up there and get teary-eyed,  
18 and -- but when you think about that, I want you to think  
19 about who he was, who he is. He's someone that got away with  
20 murder. He testified about having people stabbed in prison  
21 and he couldn't even remember if those people he ordered  
22 stabbed survived or not.

23 He had a cooperation deal that he also got very  
24 emotional about because supposedly it got his family out of  
25 trouble, his daughter and his wife and everybody. But those

1 are the same people that he set up to do crimes for him.

2 Ask yourselves if that tearful display is consistent  
3 with somebody who feels bad or has changed their lives or  
4 wants to do the right thing or somebody who's just coming in  
5 here to tell you what the government wants you to hear.

6 Mr. Eversole made a career out of lying and  
7 threatening and manipulating people, including his own family.  
8 Don't let him manipulate you.

9 And what did he get in return? He got the farm. He  
10 got a ten-year sentence reduction. I mean, you saw him walk  
11 in here. He came right in here from the street.

12 So ask yourself, when you consider all these peoples'  
13 testimony, who they are, what their backgrounds are, what  
14 their motivations are to be in here.

15 You heard from Brandon Bannick, Bam Bam, also in and  
16 out of prison since age 13, PENI, Public Enemy No. 1, Death  
17 Squad. He violated parole, committed fraud, stabbed people in  
18 prison he talked about. But he didn't seem too concerned  
19 about that because he wasn't caught for those.

20 He's charged with murders in this case. He  
21 testified, he was asked: What kind of acts of violence did  
22 you do in prison, assaults?

23 Yeah, mainly. Battery, assaults and battery on a  
24 prisoner, fighting, mutual combat, that type of thing.

25 We asked: Any stabbings?

1 I was never caught for any, no.

2 In his mind if you're not caught, it doesn't matter.  
3 But he was caught here. And that's why he came in here and  
4 testified, to get out of it.

5 And what did he get out of it? Same thing as  
6 Mr. Field, out of life in prison, gone.

7 You heard from Brian Rapinoe, also in and out of  
8 correction facilities, associated with the Peckerwoods and  
9 Skin Woods and Nazi Lowriders, fraudster, tricked people,  
10 tricked the EDD for years. Don't let him trick you.

11 Mr. Rapinoe on the stand talked about how he also had  
12 a sudden epiphany and changed his life and now he's different  
13 since he got arrested. That's not why he did this. He didn't  
14 come in here and testify because he suddenly turned his life  
15 around.

16 He came in here because he got caught and then he got  
17 paid \$4,400. He just found another way to get paid, paid by  
18 the ATF. Not just in this case, but others.

19 And what else did he get out of it? A cooperation  
20 agreement in the Southern District of California. He's not  
21 being prosecuted for the federal crimes he did down there.

22 And then we have Kaylen Chandler. She's been  
23 involved in a life of crime I think she said her whole life,  
24 and this is another person that they want you to believe. I  
25 mean, these are the people you have to believe to find

1 Mr. Clement guilty. And you have to believe it beyond a  
2 reasonable doubt.

3 Think about her actions when she found her -- her  
4 boyfriend and the father of her child in the red truck. She  
5 didn't call the police. She ran because she had a warrant.  
6 And then when she was contacted by the police, she lied to  
7 them.

8 But then she got an immunity agreement, and here she  
9 is. And you heard her testify about her benefits.

10 I asked her (as read): What does immunity agreement  
11 mean to you?

12 That anything I say can't incriminate me.

13 And I asked her: Did they give you immunity for  
14 everything you testify about?

15 Yup.

16 Just like that. They pick who sits there and who  
17 sits there.

18 An example of why you can't believe her is about the  
19 red truck.

20 So I say to her (as read): So let's talk about the  
21 red truck that Michael was found in.

22 Okay.

23 Do you remember you testified in the grand jury and  
24 you were asked whose truck it was?

25 Yes.

1           And you answered, That was our truck. It was the  
2 rental that we got.

3           She says, Correct.

4           I say, And when you testified there, you were under  
5 oath, right?

6           Correct.

7           But that wasn't the whole truth about the truck,  
8 right?

9           She says, Yes, it was.

10          Well, that's not just a rental, correct?

11          That's the whole truth, yes.

12          It was a rental you got in a fake name, right?

13          Right, she says.

14          But she doesn't seem to think there was anything  
15 wrong with that.

16          (As read): And you ripped the GPS out of it, right?

17          Did I? No.

18          Well, someone did, right?

19          Probably.

20          Well, yes or no?

21          If they did, I wasn't there for that.

22          But you know it was ripped out?

23          I'm sure it was.

24          Because that's why the rental company never got --  
25 came back, and you got it when you were -- didn't return it,

1 right? You never returned the rental car, right?

2 I did not.

3 So it's actually stolen, right?

4 Yes.

5 Does she strike you as someone who understands what  
6 telling the truth is? Someone who understands what being  
7 under oath is?

8 These are people who have nothing to trade in their  
9 lives other than lies. Lies are the only currency they know.

10 And how do you know it's lies? Because not a single  
11 one of them came forward until they were caught. They didn't  
12 come forward until they were in trouble, and they didn't come  
13 forward and sit here on the witness stand until they got some  
14 benefit for it.

15 And like I mentioned to you earlier, they all want  
16 you to believe that they had some moment of clarity and they  
17 suddenly became good honest law-abiding people; they finally  
18 saw the light and gave up the life of their thieving and  
19 frauding and drug dealing and assaulting and killing. But  
20 that's not what happened.

21 What happened, like I said, is that they were caught,  
22 and they got benefits, and they got away with their drug  
23 crimes, their gun crimes, their fraud, and their murders.

24 So think back on what these incentivized victims --  
25 or witnesses all had to say. How else do you know they aren't

1 telling the truth? Because they couldn't tell the same  
2 stories.

3 Let's compare Ms. Chandler and Daniel Rubin, Nutty.

4 (As read): Have you ever committed crimes on the  
5 behalf of the AB?

6 No.

7 Have you ever committed crimes to benefit the AB in  
8 some way?

9 Uh, I mean, no.

10 Had Daniel Rubin or Nutty ever asked you to do  
11 anything unlawful?

12 Yes.

13 Well, that doesn't make any sense.

14 (As read): What did he ask you to do?

15 To basically hook some people up that have came out  
16 of prison with drugs.

17 What were you doing for Daniel Rubin?

18 Just like I said, I was helping out with drugs with  
19 people that were getting out. I was connecting people with  
20 drugs.

21 Well, that's not exactly what Daniel Rubin said.

22 (As read): Were you sending Kaylen to pick up and  
23 deliver -- or were you sending Kaylen to pick up drugs and  
24 deliver them to people who had recently been released from  
25 prison?



1           No.

2           That's not true?

3           No. She did everything for me. That was just one of  
4 the things she did.

5           Well, she certainly didn't tell you the others?

6           Well, obviously, yeah.

7           I don't think I understand what you mean by  
8 'obviously.'

9           I trusted no men in my area. Everything that came  
10 through my area went through her.

11          Okay. So she was committing crimes on your behalf?

12          Yes.

13          Compare the testimony of Justin Field and  
14 Brandon Bannick about what happened in Pomona.

15          (As read): When you arrived back at the hotel -- and  
16 this is after they shot Ennis and Yagle in Pomona.

17          Matt -- I mean Bannick and Soldier were there when we  
18 came upstairs, says Field.

19          And what, if anything, happened when you were in the  
20 hotel?

21          We went in and sat down and Frank called.

22          And what, if anything, did Frank say?

23          I had him on speaker. He said, What happened to  
24 Jimbo? Why did Jimbo get shot?

25          And did you respond?

1 I told him, yeah, you told me that if he lied, that  
2 you wanted him taken care of.

3 Well, that's not how Brandon Bannick explained it.

4 (As read): So what happened when you were all back  
5 in the hotel room?

6 I ask the same question, but you get a different  
7 answer.

8 (As read): We were just kind of confused, I mean,  
9 you know, about everything that happened. And -- sorry I  
10 can't see that part of the screen -- and Suspect was on the  
11 phone with Frank and --

12 "QUESTION: Could you hear what Frank was saying?"

13 "Yeah."

14 "What did he say?"

15 "I just heard him say, Why did Jimbo get shot?"

16 "And what, if anything, did Suspect say?"

17 "Oh, something different than Suspect said. He  
18 explained that he had given Jimbo Ronnie's gun, or a gun, and  
19 he got worried that Jimbo was going to shoot him, and he  
20 panicked and shot Jimbo."

21 So here you have two people explaining the same thing  
22 very differently. And these are the two people that you have  
23 to believe are telling you that the person on the end of that  
24 have Signal line is Francis Clement.

25 Then we go to Rage. He's talking about the Kern

1 murder, the murder of Brandon Lowrey.

2 And he said (as read): Oh, yeah.

3 He gives a lot of details here.

4 They got some moonshine, white Lightning, and they  
5 got him drunk.

6 -- meaning Brandon Lowrey.

7 And he said (as read): He was about half drunk, but  
8 he wasn't -- Thrasher wasn't -- he didn't drink as much.

9 Thrasher being the person who killed Brandon Lowrey.

10 (As read): And they had someone come to the door and  
11 call him so that he was looking out the window talking to him,  
12 and he stabbed him through the back of the neck several times.

13 All right. So Eversole, Rage, is here on the stand,  
14 got a lot of detail here. But we know this isn't true because  
15 compared to the testimony of the coroner, Dr. Eugene  
16 Carpenter -- he's got no skin in the game here -- he testified  
17 that there was no blood -- I'm sorry, no alcohol in the blood,  
18 and his report confirms that.

19 And then you have the corrections officer,  
20 Ethan Medley, who was the one that walked up to the cell.

21 And he said (as read): I looked in, and I saw Lowrey  
22 laying under the bunk.

23 Well, if Eversole's detailed account of him being  
24 told to stand by the door and talk to someone outside the door  
25 and then gets stabbed in the back, he would have been by the

1 door, not under the bunk. So another reason you can't believe  
2 Eversole.

3 Why the inconsistencies? Lies, drugs, incentives  
4 from the government.

5 When we were questioning Field, we asked him if he  
6 was on drugs, and he says yeah.

7 (As read): So during the time leading up to when you  
8 killed Michael Brizendine, you were on drugs?

9 Yes.

10 You weren't sleeping much.

11 And I think him and I have a different understanding  
12 of what sleeping much means.

13 But he says (as read): No. I was getting regular  
14 sleep.

15 You were? Weren't you staying up for days?

16 Two at a time maybe.

17 You would stay awake two days at a time?

18 Yeah.

19 And the same thing in the period that you were  
20 killing Jimbo, you were on drugs?

21 Yeah.

22 And I want you not just to think about what these  
23 people said, but how forthcoming and smooth they were, all  
24 these cooperators, when they were being asked questions from  
25 the government compared to how they were when they were asked

1 questions from the defense.

2 And use your common sense to evaluate their demeanor.  
3 Use your own common sense to evaluate how methamphetamine and  
4 heroin use affects people's memories or their behavior. Use  
5 your common sense about how staying awake for days affects  
6 somebody's behavior and memory of events.

7 And who didn't you hear from? You heard a lot from  
8 Field about the Hollywood robbery and the Lancaster killing  
9 and the Pomona killing. You heard from Bannick about Lomita  
10 and Pomona killings.

11 But what about all the other people that were there  
12 that you didn't hear from, Sabrina Beck, Haily Chappell,  
13 Josh Cornett, Aaron Fogle, Nick, or they called him Scrappy,  
14 Matt O'Day? We didn't hear from them because they wouldn't  
15 tell you the same story. It would be more inconsistencies.

16 All you got were the cooperators who benefitted from  
17 being here. You heard from Timothy True about the Kern  
18 murder. He's got a background of burglary and attempted  
19 murder.

20 He tried to claim that he wasn't getting any benefit  
21 from being here, that he wasn't getting anything out of  
22 testifying, but he was. He was getting letters from the  
23 United States government that he could give to his parole  
24 hearing in the hopes of getting out.

25 And again, use your common sense in judging his

1 demeanor and how he behaved on cross-examination versus direct  
2 examination. You heard him quibble with Ms. Luem when she  
3 asked him why he hadn't had that giant COORS tattoo removed  
4 from the front of his neck.

5 He said something like, Well, tattoos are permanent.

6 But you could see he had the other ones filled in.

7 He could have easily had that one filled in too.

8 And Mr. True -- and judge this on your own, but he  
9 spent a lot of time trying to make ends meet and make sense of  
10 how, you know, his COORS Family Skins was somehow, I don't  
11 know, a better gang or different from the Aryan Brotherhood  
12 and that the AB was certainly not like how he was.

13 And I want you to think about the character and the  
14 credibility of somebody who thinks like this.

15 I asked him what COORS was. And, you know, the left  
16 side is him testifying about the Aryan Brotherhood and what he  
17 thinks of them.

18 And he says that (as read): They are white  
19 supremacist, a racist organization, but their everyday beliefs  
20 are different. They believe in using drugs and selling drugs  
21 and victimizing white people, murdering white people.

22 Anything that they can do to benefit the  
23 Aryan Brotherhood, it doesn't matter, they believe in it.  
24 Whereas when I was a skinhead, we believed in preserving white  
25 people. Drugs -- we weren't allowed to use drugs. We're not

1 allowed to steal from people. We weren't allowed to do  
2 anything like that.

3 And he says --

4 But you are using drugs, right?

5 I've used drugs.

6 So his own COORS Family skinhead rules didn't seem to  
7 apply to him.

8 Then he was asked again later about his COORS Family  
9 Skins. And we asked him (as read): What does that stand for?

10 And he says, COORS stands for Comrades of Our Racial  
11 Struggle or Children of Our Race Skins.

12 And I asked him, What does that mean?

13 He says, It's a neo-Nazi skinhead gang.

14 And he's been a member of that since he was 18, but  
15 he claims to have dropped out in 2016. And he explains that  
16 this is a neo-Nazi skinhead ideologist.

17 And then compare that to when he talked about the  
18 attempted murder that landed him in prison in the first place,  
19 and think about if he's someone you can believe beyond a  
20 reasonable doubt.

21 This is him testifying about the attempted murder  
22 that landed him in prison.

23 (As read): That guy Mr. Smith, the one that you and  
24 Lemeur almost beat to death, he's white.

25 Yes, sir.

1           Isn't that victimizing white people?

2           At that time in my life, I was a gang member, and he  
3 was another skinhead gang member. And, you know, I attempted  
4 to murder him for my gang.

5           We heard a lot of people talk about the enterprise or  
6 the Aryan Brotherhood enterprise, as the government calls it.  
7 The government has not proven that the crimes committed by  
8 Field and Bannick and Rapinoe and everyone else were in  
9 furtherance of any enterprise. There's no evidence of that.  
10 These are street guys doing street crimes like they have their  
11 whole lives.

12           You heard the Judge read the jury instructions to  
13 you. And they're all important, but I want to draw your  
14 attention to a few that are especially important in this case.

15           The Judge told you that you should focus on a  
16 witness's memory, focus on the manner that they testified, the  
17 witness's interest in the outcome of the case, whether other  
18 evidence contradicts their testimony.

19           And again, you only heard from cooperators in this  
20 case about what's supposed to have happened and who's supposed  
21 to have ordered it.

22           Yeah, you heard from the crime scene experts and the  
23 CO who found Brandon Lowrey, but they weren't there when  
24 anything happened. They were there after the fact.

25           Think about how the people's memories and behavior in



1 this case were affected by their benefits, by their  
2 cooperation agreements, by their immunity agreements, by the  
3 payments that they were getting for what they were doing,  
4 affected by drugs and lack of sleep. Think about the way they  
5 testified and their interest in the outcome of this case.

6 The Judge went over with you that you heard  
7 Brandon Bannick and James Fields are people who plead guilty  
8 for crimes. You can consider that and you should.

9 Robert Eversole, Brandon Bannick, James Field,  
10 Troy Clowers, Timothy True testified in exchange for favorable  
11 treatment from the government. Kaylen Chandler got immunity.  
12 Rapinoe got payments.

13 Then the instruction tells you (as read): For these  
14 reasons, in evaluating the testimony of these witnesses, you  
15 should consider the extent to which or whether each witness'  
16 testimony may have been influenced by these factors. You  
17 should examine the testimony of these witnesses, in this case  
18 all the cooperators, with greater caution than that of other  
19 witnesses.

20 The problem here with all those green checkmarks in  
21 the government's closing argument is that you have to treat  
22 all those witnesses with greater caution because they are not  
23 reliable.

24 You only heard from cooperators about what's supposed  
25 to have happened. You only heard from thieves, fraudsters,

1 drug dealers, and killers. And that's not beyond a reasonable  
2 doubt. Think long and hard about these cooperating witnesses  
3 the government wants you to believe beyond a reasonable doubt,  
4 their incentives to lie, the benefits they're getting, their  
5 demeanor on the stand, like Daniel Rubin and Kaylen Chandler,  
6 their massive criminal records.

7           Beyond a reasonable doubt is not if you kind of  
8 believe something or you think it's more likely or not.  
9 Beyond a reasonable doubt is the highest standard of proof in  
10 the criminal justice system.

11           You would not give any of those people on the witness  
12 stand the keys to your house to water your plants, and that's  
13 why you have to find Mr. Clement not guilty.

14           THE COURT: All right. Thank you.

15           For Mr. Johnson, please, Ms. Luem.

16           MS. LUEM: Just a moment, Your Honor.

17           Sorry about that. I know it looks like I'm going to  
18 keep you here forever, but I'm not.

19           I want to start by saying that this trial has been  
20 long. And it was expected to be quite a lot longer. So we  
21 appreciate your time and your attention and your patience with  
22 things like this. And our client Mr. Johnson thanks you.

23           He is not guilty. And I'm here to tell you why.

24           The government in this case has not met their burden  
25 of proof. And as Ms. Byrialsen just told you, the burden of

1 proof in a criminal case is beyond a reasonable doubt, the  
2 highest in any type of case in this country.

3 The legal system -- a lot of people during jury  
4 selection said our criminal justice system is broken. I  
5 disagree. I think it's one of the greatest systems in the  
6 world. And the reason why is because we have people like you,  
7 jurors who come in here, everyday people, who evaluate the  
8 evidence, who listen to the witnesses.

9 We don't have a judge or a two judges deciding  
10 somebody's fate. And in this case, it's more than just money  
11 or, you know, civil action or even something as important as,  
12 for example, parental rights. The standard in a criminal case  
13 is higher than all of those because you're talking about  
14 somebody's liberty.

15 So we thank you and we ask you to keep the promises  
16 that you made during jury selection, to hold the government to  
17 their standard of proof beyond a reasonable doubt.

18 One of the first promises you made was that you would  
19 presume Mr. Johnson innocent. That you understood that  
20 concept, that you would follow the law, and that unless the  
21 government proved their case, every element of their case to  
22 you beyond a reasonable doubt, he would remain innocent in  
23 your eyes until then.

24 And you've heard a lot of bad stuff. I mean, we're  
25 not talking about, you know, a perfect person sitting over

1 here. You've heard evidence that he is in prison. He is  
2 incarcerated. He's done things in the past that put him  
3 there.

4 And, uh, the question for you now is not is he a good  
5 guy, is he a bad guy, should he be in prison for those things,  
6 it's, did he commit the crimes that they charged in this  
7 indictment? And did they prove them beyond a reasonable  
8 doubt?

9 So at the beginning of this case, the government in  
10 their opening statement told you that there was going to be  
11 these buckets of information of, you know, violent crimes and  
12 RICO acts. And I submit to you -- and this might be, I don't  
13 know, my co-counsel didn't understand it when I said, show me  
14 the receipts, but where are the receipts? That's a question  
15 that you should ask yourselves when you get back there in the  
16 jury -- jury room.

17 Who keeps receipts? And I mean it literally and  
18 figuratively. You know who keeps receipts? Banks, the  
19 California Department of Corrections, phone companies keep  
20 receipts and records, government agencies like EDD keep  
21 receipts. And where are those receipts when it comes to  
22 Mr. Johnson?

23 Ms. Byrialsen went through all these cooperators and  
24 the statements that they made and how they did these things  
25 and they committed these crimes. And in particular, something

1 that the government repeated over and over and over through  
2 this trial through every witness was that if you're doing  
3 crime, you have to kick up to the Aryan Brotherhood, right?

4 Robert Eversole, I was kicking up to Kenny Johnson.  
5 I was paying up to the kitty or the general fund. Where were  
6 those receipts? The Department of Corrections keeps track of  
7 money that comes in to the prison and goes on to inmate  
8 accounts.

9 They have receipts. They have records. They have  
10 the ability to get those records and show if Mr. Johnson was  
11 receiving payments from anybody. Where are they? You didn't  
12 see any receipts. You didn't see any records. Nobody from  
13 CDCR came in and told you, Oh, well, there's an AB general  
14 fund and everybody is tithing to it or that any of these guys  
15 were receiving payments. Nothing.

16 You heard from Troy Clowers who said something like  
17 he -- he used this catalogue to send drugs in at  
18 Kenny Johnson's request through the Department of Corrections  
19 and they drill the hole in something and mailed in. Where's  
20 the record of that? They keep records of packages coming in  
21 to the prison. They keep records of mail. Inmates sign for  
22 these things. There was no evidence. All you get is the word  
23 of Troy Clowers.

24 What about wiretaps? You heard testimony that they  
25 had wiretaps going during the time of the Lomita homicides.

1 And I submit to you that while you heard one call that  
2 purports to be Kenny Johnson talking to somebody named  
3 Todd Morgan, there are no other calls, no other recorded phone  
4 calls of Kenneth Johnson talking to anybody about anything.

5           There are no kites. You heard a lot about kites and  
6 passing kites. Where are the kites that have Kenny Johnson's  
7 name on them? Where are the kites that Kenny Johnson wrote?  
8 There are none. Receipts.

9           There's no cell phone records that were presented  
10 that have his name on them or his phone number. He's on that  
11 recorded call giving a phone number. Presumably it's his  
12 number. And there was nothing done to corroborate or show  
13 that that phone belonged to Mr. Johnson.

14           Same with Allan Roshanski's phone, which they had,  
15 which they recovered. No calls that indicate he was  
16 communicating in any way with Mr. Johnson.

17           We talked a lot about Cellebrite extractions. And  
18 you heard from Robert Eversole, who I'm going to talk to you  
19 at length in a little bit, I'm sorry to say, but he testified  
20 that he had two phones taken shortly before he was ripped out  
21 of his cell and charged federally.

22           The phone that he had at the time that he was  
23 arrested, he didn't have it for very long and they took that.  
24 But the two prior phones that he had through the months of  
25 October and November were taken by law enforcement. They are

1 in the hands of the California Department of Corrections.

2 You know who has access to those phones? They do.  
3 They could have taken those phones, Robert Eversole's phones,  
4 done a Cellebrite extraction, and seen whether or not there  
5 were any communications with Mr. Johnson. That was not done.  
6 Period.

7 You heard about people committing EDD fraud and that  
8 Mr. Johnson was involved in EDD fraud. The woman who  
9 testified, God bless her, right, she was just here to talk  
10 about, you know, what she knew and what she did. And she's  
11 got no dog in this fight. But she said as far as records with  
12 Kenny Johnson's name, I don't know anything about that. I  
13 didn't see anything like that. No receipts.

14 That is not proof beyond a reasonable doubt. So we  
15 have cooperators, we have thieves, liars, killers, as  
16 Ms. Byrialsen told you, but no corroboration, no hard  
17 evidence, no receipts.

18 Instruction Number 14 is important. And I don't want  
19 to spend too much time on it, but I think you all understand,  
20 we covered it in jury selection. You are to evaluate the  
21 evidence as to each defendant separately, right?

22 So Hollywood robbery, Kenny Johnson is not charged,  
23 there's no evidence that he had anything to do with it, that  
24 he knew anything about it. James field told you this. There  
25 was a conference call. Kenny, not on the call. So we can

1 just skip past that.

2 Same with the homicide of Mike Brizendine. Kenny  
3 wasn't charged with that; he didn't know about it.  
4 James Field testified that Kenny Johnson had nothing to do  
5 with that. Kaylen Chandler never even mentioned Kenny's name.  
6 So we can skip past that.

7 Pomona homicides, again, Kenny not charged with that.  
8 No evidence he had anything to do with it. I will point out,  
9 though, that the government brought up these Signal messages  
10 that were going to James Field and his phone around the time  
11 of the Pomona homicides where he was allegedly communicating  
12 with somebody else in this case.

13 And Mr. Johnson was reaching out to Mr. Field and  
14 trying to get ahold of Mr. Field because this other guy who  
15 didn't have a phone was often with Mr. Field. And Suspect,  
16 Mr. Field, wasn't responding to any of Mr. Johnson's messages,  
17 right, he wasn't answering.

18 And at one point, Mr. Johnson said, you know,  
19 you're -- You're being disrespectful or, You're disobeying an  
20 order and you're in the hat. Right? The government tells you  
21 what that means and all the witnesses did too, which means  
22 you're marked for death, certain death, you're in the hat.

23 So he sends that message to James Field. And I asked  
24 Mr. Field about that, you know, like you weren't answering and  
25 Mr. Johnson was blowing up your phone about something totally



1 different than what you were involved with. And what happened  
2 to you for disobeying that direct order? Nothing. He wasn't  
3 assaulted. He wasn't -- obviously, he wasn't killed. He  
4 wasn't checked.

5 He said he had a -- he had, like, a good excuse,  
6 basically is what he told me. He told Mr. Johnson that he was  
7 sleeping. Which we know isn't true because he was involved in  
8 these murders and all that.

9 So he lied to Mr. Johnson. That's, according to  
10 them, another violation that results in, you know, immediate  
11 death. That didn't happen.

12 And we know that Mr. Field was housed at the  
13 Fresno County Jail along with Mr. Johnson for some time before  
14 he decided to cooperate with the government. So there's  
15 plenty of opportunity for Mr. Johnson to enforce this rule  
16 violation.

17 We heard testimony from Brandon Bannick that he was  
18 ordered by somebody to kill Rick Rainey, but he didn't want to  
19 do that because he didn't think it was right because  
20 Rick Rainey was a -- a brother. And so he disobeyed that  
21 order.

22 And you know what happened to Mr. Bannick for  
23 disobeying a direct order? Nothing. He wasn't assaulted. He  
24 wasn't hurt. He was in the same jail, in the same pod.

25 Mr. Perkins owed money. What happens, according to

1 the government, if you owe money to the AB? You die. That's  
2 what they say. That's what all of their witnesses say, the  
3 same thing.

4 It's so strange. You know, like, every one of these  
5 witnesses says exactly the same thing. You think that's a  
6 coincidence?

7 Well, Mr. Perkins, who was celled in the same unit  
8 over at the Fresno County Jail, wasn't assaulted. Nothing  
9 happened to him.

10 Mr. Rubin, Nutty, testified that he was ordered to  
11 kill somebody when he was in prison, and he didn't do it. And  
12 as a result, the AB sponsors that he had, they withdrew their  
13 sponsorship, you know, like Nike or something. Like, We  
14 don't -- you know, You're not ours anymore.

15 He wasn't assaulted. He says, Well, it was only five  
16 days before I locked up.

17 Well, that's -- five days is a lot of days for  
18 somebody to -- to hurt you if they were, in fact, enforcing  
19 these rules.

20 And again, you heard then from Timothy True that this  
21 guy Fox was -- was told or asked to kill Brandon Lowrey. And  
22 he said, You know, I really don't want to do that. I'm kind  
23 of worried about the death penalty, so, like, it's just not  
24 for me. No, thank you.

25 And nothing happened to him, right? Nothing.

1           According to True, Holmeyer said, Oh, you know what,  
2 I'll do it. That sounds like fun.

3           And nothing happened to this individual. At least as  
4 far as we know, no evidence was presented that he was ever  
5 assaulted or killed.

6           Now, that takes me to what I really need to talk to  
7 you about, which are the Lomita homicides that Mr. Johnson is  
8 charged with.

9           And this is kind of a funky picture. It's hard to  
10 see. But this is the backpack that was found -- or the fanny  
11 pack that was on one of the victims which contained a cell  
12 phone -- this comes from Detective Maciel -- credit cards,  
13 most of them were in Roshanski's name, there was, I think, one  
14 in the name of a woman by the name of Marina Lampert, a  
15 firearm. There were also in the car narcotics, this EDD  
16 paperwork.

17           And I just want you to ask the question -- look, we  
18 know that Allan Roshanski and Allan [sic] Magomedgadzhiev were  
19 murdered. We know that, right? But why didn't they do  
20 anything to investigate this crime?

21           She says, well, after I think a redirect by the  
22 government, Do you usually investigate the victims?

23           Oh, no, we don't.

24           Well, they did, actually, for Ennis and Yagle. You  
25 recall they looked at their tattoos. And I think they may

1 have done the same here. But they did not contact any of the  
2 people on the paperwork for the EDD, at least there was no  
3 testimony to that. They didn't contact the woman whose credit  
4 card Allan had in his possession to see, hey, who might have  
5 wanted these guys killed. They didn't bother to preserve the  
6 Ring video that showed the car pull up. And just because it  
7 didn't capture the actual shooting, I guess it wasn't  
8 important enough for them to do.

9           They didn't follow up and interview witnesses that  
10 knew Allan and Ruslan. And they basically just sort of, like,  
11 threw their hands up and said, Well, you know what, there's  
12 these two dead Russians in the street of Lomita. We don't  
13 know what to do with this.

14           And then they turn it over to the ATF.

15           The ATF then decides based off of, I think, an  
16 anonymous tip that they got, Well, this must be an AB crime,  
17 somehow related to -- because of the EDD paperwork or  
18 something. Who knows?

19           And then they go from there, right? And then  
20 everything they do is just to collect evidence to confirm  
21 their belief that this is an AB-ordered hit.

22           I very briefly want to talk to you about something  
23 that came up during Mr. Eversole's testimony about an  
24 interview in South Carolina when he was in custody.

25           And he said that he was interviewed by investigators

1 from Mr. Johnson's team. And I just -- he sort of alluded to  
2 the fact that he felt intimidated by this or somehow  
3 threatened by this. And I want you to ask yourselves, think  
4 to yourselves for a second, What if I was charged with a  
5 crime, okay? I got pulled in by the federal government,  
6 handed an indictment with my name on it, your name on it,  
7 saying I am responsible for killing two people who I don't  
8 know, who I've never met. I have no idea why they were  
9 killed, how they were killed, who killed them. I know nothing  
10 about this. Right? What do you do? What do you do?

11 You're innocent of this crime, right? And you don't  
12 know who's accusing you. There's a secret grand jury that was  
13 convened, and somehow your name ends up in this paperwork.

14 Well, the first thing you do is plead not guilty.  
15 The next thing you do, or maybe you can switch the order, is  
16 you get a lawyer, you get an investigator, and you start  
17 asking questions. You start reaching out to people, people  
18 that you know, maybe like Robert Eversole or other people  
19 involved in the case and say, Hey, why am I in this  
20 indictment? Like, what do you know about this? Do you know  
21 anything? Can you help me figure out, like, why I'm charged  
22 with something I know nothing about?

23 I mean, there is nothing sinister, there's nothing  
24 illegal, there's nothing unethical or strange about  
25 interviewing potential witnesses.

1           So any suggestion from Mr. Eversole or the government  
2 that that's -- that was a threat towards Mr. Eversole is  
3 just -- is just false. Mr. Johnson's investigator, nobody  
4 knew at the time that he was a cooperating witness. He told  
5 you that.

6           He said it was -- it was a secret. And so I just --  
7 you know, I talked to them and I told them what I knew and --

8           Well, he must be a pretty darn good actor. I mean,  
9 he sat through that whole interview -- actually, two  
10 interviews -- and never let on once that he knew anything  
11 about the Lomita homicides, period.

12           The government has -- I just -- I can't wrap my head  
13 around why they think these Lomita murders happened. In  
14 opening statement, the government said the message was clear,  
15 if the AB says you owe them money and they have -- then they  
16 have people who will come and collect. And if you refuse to  
17 pay up, you will be killed.

18           Okay. But who said that Allan Roshanski owed anybody  
19 money? Who said that this was discussed with Roshanski, that  
20 he was refusing -- I mean, where does this come from?

21           It's just like a made-up theory that fits with this  
22 theory-driven investigation, right?

23           Lana Haley testified that -- that he was -- he was  
24 disrespectful. (As read): Roshanski was disrespecting an AB  
25 member.

1 She's asked, Well, how?

2 And she says, I don't know. I don't know.

3 Well, when?

4 Nobody knows.

5 Why?

6 Uh, who knows.

7 And then we've got Robert Eversole who reiterates the  
8 disrespect thing but then also says the whole point was to get  
9 these EDD cards that Roshanski was supposedly going to bring  
10 to this meeting 10 or 12 or 13 cards. Where is the evidence  
11 of any of that?

12 And there's a meeting, supposedly, according to  
13 Brandon Bannick, before the killing where they approach the  
14 car and have a conversation. Don't you think there would have  
15 been a discussion right then about, like, where's the  
16 briefcase or where's this stuff? But we don't know anything  
17 about any of that.

18 Mr. Bannick testified, and he just said there was a  
19 conversation, and then we drove to another location, and I  
20 wasn't expecting this to happen.

21 So what's -- what's the motive for this crime? So  
22 that brings us to Brandon Bannick. He was there, right? So  
23 presumably, he's the witness that testified in this case that  
24 would know the most about why this happened and what happened  
25 and the details of -- that, you know, lead up to the motel

1 room with -- with the other guys and then ultimately, you  
2 know, going and doing this murder.

3 And he told you that, uh -- oh, and also keep in  
4 mind, and I think I said this already, he was housed in the  
5 Fresno County Jail, according to him, with Mr. Johnson for  
6 eight months after they were arrested for these -- these  
7 offenses.

8 He says that he -- that Kenny Johnson didn't know  
9 anything about these homicides. As far as he knew, Kenny knew  
10 nothing. That was his testimony. Got it on the screen.

11 You probably remember but (as read): Nobody told you  
12 that Kenny wanted these homicides to happen, correct?

13 Correct.

14 Or that they were being done at his request or  
15 direction, correct?

16 Correct.

17 Okay. So that's the guy who knows the most about  
18 what went down in Lomita, and he's saying, absolutely,  
19 Kenny Johnson knew nothing about it.

20 And he tells it to these people. That's a fact that  
21 they cannot escape. They cannot get away from that.

22 But what they have in their back pocket for you is  
23 Robert Eversole, Rage, who is a cooperating witness.

24 And there's that instruction that Ms. Byrialsen  
25 showed you. I won't keep it up there because you have it in



1 your packet. But this guy is the definition of an  
2 incentivized witness.

3 He was first arrested around '7 or '8, he says. He  
4 went to prison -- on direct he says he was 18. On  
5 cross-examination he said it was 20. It doesn't matter. It  
6 was when he was just barely an adult.

7 He was raised -- I think he said in a Hells Angels  
8 family, so he was aware of the Aryan Brotherhood and aware of  
9 gangs and those kinds of things from a young age.

10 He had prior convictions for possession of stolen  
11 property, resisting arrest, possession of a firearm, felony  
12 drug possession, and then finally, a robbery with use of a  
13 deadly weapon, which put him in prison, state prison, for  
14 21 years and 8 months. He told you exactly 21 years,  
15 8 months. That's something that's in his brain.

16 And Mr. Robert "Rage" Eversole was three years to the  
17 gate, right? He had three years left on this very long  
18 sentence before he was going to be released to the streets.  
19 And who comes along scoops him up? The federal government,  
20 because of things he was doing in jail on the phone.

21 They yank him out of his cell early in the morning --  
22 or in the middle of the night, I can't remember, they bring  
23 him to the Fresno County Jail, and they tell him he's being  
24 arrested for federal drug trafficking and gun trafficking  
25 charges.

1 Oh, my gosh, right? So here I am, I'm about to get  
2 out of prison, and now I'm looking at this huge amount of  
3 time. Oh, and guess what else? Mr. Robert Eversole, your  
4 wife is facing charges, your daughter is facing charges, your  
5 daughter's baby daddy is facing charges, your stepdaughters  
6 are facing charges all for things that you, my friend, asked  
7 them to do. So not only are you not getting out of the  
8 prison, these people are all potentially going into prison.

9 So that's when the deals start to happen, right? He  
10 says first interview, You know what, this is not for me. I  
11 don't think I want to talk you guys. You know, I'm like a --  
12 James Field, you know. I've got my stitches tattooed across  
13 my mouth. Well, that didn't last long, did it?

14 He was looking at 10 to life, he said, or a mandatory  
15 5 to 40. And then as you know -- so that was in late 2020  
16 that he got brought in, was facing up to life in prison. And  
17 he's home now, ladies and gentlemen. Mr. Eversole is out of  
18 prison.

19 So you heard from Daniel Rubin, right, another  
20 upstanding member of society. And he told you that  
21 Robert Eversole had been a good friend of his and that they --  
22 and that Robert Eversole, when they were in prison together,  
23 said, If you want to be a leader and if you want people to  
24 listen to you, you have to be charismatic. You need to learn  
25 to be likeable. Maybe, you know, Mr. Rubin was not as

1 likeable in the past as he is now.

2           So that's his schtick, right? That's Rubin's [sic]  
3 thing. That's what he does. Like, he gets people to like  
4 him. He gets his family to hide ghost guns in the attic, and  
5 gets his daughter to go out and sell an illegal firearm to a  
6 confidential informant. He gets his wife to do this EDD fraud  
7 for him and his daughters to cash these fake checks or apply  
8 for -- for assistance when they don't actually need it,  
9 defraud the State of California.

10           And that's because they trusted him, right? Because  
11 he was a likable charismatic guy. And frankly, he was  
12 their -- their family member, their father figure, the  
13 husband.

14           He was asked, you know, You found out they were all  
15 facing these charges, and those were things that they did at  
16 your behest?

17           And he says, Yes.

18           And that's when he decides, you know what, I need to  
19 cooperate with the government because I've got to get not only  
20 myself out of this huge problem that I have, I've got to get  
21 them out of this huge problem. His wife is divorcing him.  
22 His family, you know, hates his guts. And so he -- he starts  
23 talking.

24           He says, Okay, you know what, get me deals for  
25 everybody, and I'll -- and I'll tell you what you want to --

1 want to know.

2 This is the same instruction that Ms. Byrialsen  
3 showed you. But I do -- I do want you to think specifically  
4 when it came to Mr. Eversole's testimony about a couple of  
5 these things. And one of them is the -- they sort of go  
6 together, the witness's memory and manner while testifying on  
7 the stand. Direct examination, question, answer, question  
8 answer, question, answer.

9 My co-counsel Mr. Villa gets up on cross-examination,  
10 question, Oh, gosh, you know what, I don't remember.

11 Well, what if I showed you the transcript where you  
12 said that, would that help?

13 Well, maybe. Uh, nope, it doesn't help. I still  
14 don't remember.

15 He can't remember anything. All of the sudden this  
16 guy is just -- his brain has been erased. Does he have an  
17 interest in the outcome of the case? Absolutely. I mean,  
18 that's what his whole cooperation agreement was about, was to  
19 get him out of trouble and his family out of trouble. And  
20 guess what? Now he and his wife have a better relationship  
21 than they've ever had before. Lucky him.

22 And whether other evidence is contradicted by his --  
23 this testimony, right? Again, they could have corroborated  
24 it. They could have taken those two phones that the CDCR had  
25 and done these Cellebrite extractions and seen if he was

1 actually talking to Mr. Johnson around that day that the two  
2 gentlemen were killed in Lomita.

3 But they didn't bother to do that. Do you know why?  
4 Because they didn't need to because they had Robert Eversole  
5 to say Kenny Johnson told me these guys were going to get  
6 smoked.

7 Conflicting testimony. Ms. Byrialsen talked about  
8 this a little bit, but the two things she didn't talk about  
9 were that Mr. Eversole says that when he called  
10 Brandon Bannick, he was on a speaker phone and there were like  
11 eight people in the room and he was pissed about it.

12 And Mr. Bannick says that didn't happen. It was not  
13 on speakerphone, I didn't hear who he was talking to, period.

14 Mr. Eversole testified before the grand jury that at  
15 some point Bam piped in and said "Hey, bro" from the  
16 background. That's how he knew it was on speakerphone.  
17 Again, Brandon Bannick, denied that ever happened.

18 There's also two other people, according to  
19 Brandon Bannick, that were in the room, including Matt O'Day,  
20 who could have corroborated whether or not this phone call  
21 happened, whether it was speakerphone or a call, any call.  
22 Nah. You know what? We don't -- we don't need to bother  
23 bringing him in.

24 This is something that Mr. Eversole fought tooth and  
25 nail over. And you'll recall, and Mr. Villa told you about

1 this in opening statement, that Mr. Eversole started -- he  
2 started agreeing to cooperate early in 2021, a couple months  
3 after he was arrested and found out his family were all in  
4 big, big trouble.

5 And he: Can I get a transcript?

6 He, first couple of interviews, says, No, I want  
7 nothing to do with you. He meets with them again, Ms. Stokman  
8 and Agent Gonzalez, and talks to them about, you know, this  
9 and that, different crimes, the Lomita homicides.

10 He meets with them again, talks to them about Lomita  
11 homicides, different crimes, things that he knows about the  
12 Aryan Brotherhood. He meets with them again.

13 These are all recorded, right? That's what we were  
14 showing him, the transcripts of these recordings. He says --  
15 you know, talks to them about different crimes, uh, Lomita  
16 homicides again in May 2021. He's meets with them again. He  
17 talks to them about different things.

18 Let's see. December '24. I think this is a  
19 duplicate. He meets with them.

20 And then in May of '22, just before the government is  
21 going to go to the grand jury, Ms. Stokman brings up with  
22 Mr. Eversole after all of these -- all of these proffer  
23 sessions and says: "So we talked to you about this, we talked  
24 to you, I think we were just trying to get specifics and kind  
25 of figure out the players, but you gave us a lot of

1 information on Frank. It seems to us, kind of knowing how  
2 Kenwood also operates, that this was probably a Frank and K  
3 decision.

4 Was there any indication to you or did you have any  
5 conversation with K about the Lomita murder to indicate that  
6 he had also like -- you know, him and Frank were kind of  
7 putting this directive out?

8 That comes from the government. The government is  
9 asking a guy who's been sitting through proffer sessions,  
10 hours and hours and hours of proffer sessions, about all these  
11 different things, including the Lomita homicides. Gosh, you  
12 know what? This sounds like maybe it's a Frank and Kenny  
13 thing. What do you think about that?

14 And then he says, Oh, yeah, you're right, you're  
15 right. I did get a call. Thanks for reminding me. I did get  
16 a call from Kenny that the guy needed to be taken care of.

17 That's it. That's the evidence against Kenny Johnson  
18 that he ordered the Lomita homicide. Not from Brandon Bannick  
19 who was there at the Lomita homicide, but from this guy who  
20 had everything to lose, his life, his wife, his kids.

21 And they gave him an out. And he had everything he  
22 wanted. And guess what? So did they. Because Kenny Johnson  
23 got stuck in this indictment and he's sitting over there and  
24 now he's asking you to consider the evidence, the receipts.  
25 He's asking you to find him not guilty.

1 Robert Eversole is a career criminal. He comes  
2 across as maybe a likable guy. He's been manipulating people  
3 and using people his entire life, including his own family.  
4 And if you think for a second that he's not going to do it to  
5 them, that he's not going to do it to you, think again.

6 In order to convict Kenny Johnson of these Lomita  
7 homicides, these Lowrey homicides, you have to believe  
8 Robert Eversole beyond a reasonable doubt. You have to  
9 believe beyond a reasonable doubt that it didn't occur to him  
10 to mention Kenny Johnson's involvement in Lomita until he was  
11 asked by Ms. Stokman years after his arrest.

12 That is not proof beyond a reasonable doubt. That is  
13 not what our system of justice demands. It demands so much  
14 more. It demands receipts. It demands corroboration. It  
15 demands witnesses that tell you the truth.

16 Mr. Johnson is not guilty. And I thank you for your  
17 time.

18 THE COURT: Okay. Ladies and gentlemen, thank you  
19 for your attention so far. We're going to go ahead and take  
20 another break and a little bit longer so you can grab a snack.  
21 And we will return at twelve o'clock. Thank you very much.

22 (Jury exits the courtroom at 11:40 a.m.)

23 THE COURT: All right. Anything for the record at  
24 this time?

25 MR. REED: No, Your Honor.



1 MS. LUEM: No.

2 MS. STOKMAN: No.

3 MS. FISHER-BYRIALSEN: No.

4 THE COURT: All right. We'll take a break. Thank  
5 you.

6 (Recess held.)

7 THE COURT: All right. Everyone ready? Let's go  
8 ahead and call in the jury.

9 (Jury enters the courtroom at 12:04 p.m.)

10 THE COURT: All right. We have all of our jury  
11 members back.

12 Mr. Reed, you may begin.

13 MR. REED: Thank you, Your Honor.

14 Good afternoon. I don't think I've spoken to you-all  
15 directly in probably about four weeks now, but you all know  
16 that I represent John Stinson. Usually when I get up, those  
17 are the questions that I ask.

18 This has been a quite a day for me, or the last  
19 couple days. So I didn't know -- I'm not from Fresno so I  
20 didn't know anything about this cattlemen thing you guys do.  
21 So my regular hotel room that I'd normally go to, I didn't get  
22 to stay there.

23 So I'm on another side of Fresno that I didn't know  
24 about, and I had the pleasure of a mosquito in my room all  
25 night. So I had that little fun.

1           And then I came to the courtroom today. I didn't  
2 know it was going to freeze me all morning. So I've been  
3 cold. And now I find that this machine doesn't work with my  
4 Apple stuff.

5           So unfortunately, you don't get to watch another  
6 PowerPoint presentation. I'm going to do this old style. I'm  
7 just going to talk to you the way lawyers used to do. And  
8 I'll bring up some things on what a chart's supposed to say  
9 and what I think the evidence says.

10           But of course, as the Court told you, that's not  
11 evidence, what I say it says. It's not evidence of what  
12 Ms. Stokman says it says. And in fact, we don't like to say  
13 it, but the reality is, if you really want to know what  
14 something says, you come back out here and ask the Court to  
15 ask the court reporter to read it back to you and you can  
16 decide what it says, listen to it. That's how it's done.

17           This book right here, and there's another book that  
18 goes with it, but this is the book on how to prove a criminal  
19 case in federal court. There's other book, I don't remember  
20 what color it is, but it's called the Evidence Code, and  
21 that's how things come in in federal court.

22           As I sat here listening to the opening statement of  
23 the government -- and, you know, lawyers pick sides when they  
24 decide who they're going to work for. If you're a criminal  
25 defense attorney, for the most part, you don't prove things.

1 There are some hearings where you do, but for the most part,  
2 defense attorneys don't prove anything.

3 That's not my job. There is no beyond a reasonable  
4 doubt Kenneth Reed standard that I have to deal with.

5 So I sat through the same trial that you did, not  
6 hearing John Stinson's name wondering why John Stinson was  
7 here. Well, I know why he's here, but you may have wondered  
8 that. And I'm listening this morning and I'm hearing, Well,  
9 of course John Stinson did this, of course John Stinson did  
10 that, of course John Stinson knew what was going on.

11 And I caught -- saw myself thinking, well, geez,  
12 where was I when this was all happening? Because I didn't  
13 hear those things. But that's closing argument. Lawyers get  
14 to do that.

15 And if you might remember, if you really were  
16 listening hard, on occasion I crossed over into argument when  
17 I would ask questions and the Court would sustain the  
18 objection. But now I get to argue and nobody sustains the  
19 objection. Now I can tell you what's happened.

20 You will not ever hear the word presumption in this  
21 case as applied to my client or any of the other defendants.  
22 Because the only presumption in this entire book, in the  
23 entire instructions that the Court read to you this morning,  
24 in the entire instructions that she'll read to you in the  
25 afternoon, is presumption of innocence. There is no other

1 presumption. Yet, I think sitting where you're sitting -- let  
2 me back up a second.

3 I didn't talk to you-all directly and I'm not even  
4 sure I spoke to you individually about it, but I did mention  
5 the concept that being a juror in a criminal case is advanced  
6 citizenship. I think you might remember that. Now I can tell  
7 you why.

8 Because there's a -- there's a thing that kind of  
9 makes you want to go, AB, bad guys, AB, murderer guys, AB,  
10 guys tried for murder crimes, they must be guilty. Why should  
11 I spend time thinking about it?

12 In fact, there were people sitting in the chairs  
13 you're sitting in right now who actually said that, I can't be  
14 fair because I'm black. There's a woman that sat -- I'm not  
15 going to point at you, ma'am, but there was a woman that sat  
16 in your chair that said exactly that, I can't be fair because  
17 I'm black.

18 And to her credit, maybe not for the reasons she  
19 thought, but that was a good thing, because she let us know  
20 she can't do that. You-all did just the opposite. As you  
21 were being picked, as we were -- as jurors were being excused,  
22 as we were getting down to the last eight or nine, all of you  
23 said, That's not me. I can look at the evidence, I can make  
24 the government prove their case beyond a reasonable doubt.

25 And in my case, because I only represent

1 John Stinson, I only care about John Stinson. That's just the  
2 way lawyers are. That's why each defendant gets his own  
3 attorney.

4 My job is to defend. And I'm not going to go through  
5 the history of that, but -- the history of how lawyers get to  
6 do what lawyers do, but my job is to defend John Stinson on  
7 the two things that he's basically being accused of.

8 That long jury instruction the Court gave you and the  
9 prosecutor talked about where she went through the one through  
10 four things, put differently, the government must prove that  
11 John Stinson, again, my client, knowingly and intentionally  
12 agreed to facilitate a scheme which included the operation of  
13 management of an enterprise through a pattern of racketeering  
14 acts.

15 That's a lot of words, got a lot of big words in it.  
16 And I can tell you in lawyer world, there's a whole lot of  
17 cases that explain what that really means. But long and short  
18 of it, it's in English, so you take that and that's the  
19 template that you chase this case with.

20 Now, I'll give you two things that I'm stuck with and  
21 cannot change. There are two recordings that if you have  
22 time, and if you're not positive, I'd ask you to have the  
23 Court read them back -- or excuse me, have them where you can  
24 hear them again.

25 One was a conversation where Mr. Stinson was on the

1 phone -- or actually, they're both on the phone. One is a  
2 conversation of a bunch of old guys talking old guy talk. Not  
3 one time does John Stinson say, I want you to kill somebody.  
4 Not one time does John Stinson say, I want you to defraud this  
5 or defraud that.

6 He's asking the things that I guess a bunch of guys  
7 would do when old guys have been living in prison for a fair  
8 part of their life and they start talking about who's doing  
9 what. I would consider that gossip. And unless somebody  
10 explains it to you, but he's speaking English, you can  
11 understand what his words are.

12 Is that dealing with the enterprise? That's the  
13 question to be decided. I will live with your decision  
14 because you promised that you would apply the facts to the law  
15 in this case and you would do so impartially.

16 Even though you may take the position, that probably  
17 everyone in this room holds is, that gangs are bad, the  
18 Aryan Brotherhood is a gang, and I may not want them sitting  
19 at my dinner table.

20 But that's not what this is about. This isn't about  
21 them sitting at your dinner table. This is accusing them of a  
22 crime -- and sentencing is not your world, but accusing them  
23 of a crime. And's that the key. And that's always beyond a  
24 reasonable doubt. It doesn't care who the defendant is.

25 In theory, I don't know -- we don't -- I don't even

1 know if we have Lady Justice in this -- I'm not from here. So  
2 maybe somewhere around here there's a statute of Lady Justice.  
3 And if you see her, you know she's always blind. And she's  
4 got a couple different things in her hands, but we aren't  
5 worried about that part. But the blind part is the key. Who  
6 the defendant is is not the test.

7 I was thinking about the witnesses and as they come  
8 up, I write down what I think they said. And sometimes I  
9 guess I write down something different than what the  
10 government says. If I'm wrong, she'd give you the test, ask  
11 the Court's permission, court reporter will come read it back  
12 to you.

13 Troy Clowers, I listened to what little Troy had to  
14 say. In my presentation, I got a picture of him and  
15 everything, but we don't get to do that. But one of the  
16 things I did notice -- and I'm not going to change, I still  
17 like doing PowerPoint presentations, but in this particular  
18 courtroom when it's done by a PowerPoint, you-all look down at  
19 the screen so you're not looking at the lawyer when they are  
20 talking to you. Makes it feel as though we are not talking to  
21 each other or we're not -- I'm not communicating. So maybe  
22 this may be the better way. I can see you looking at me as  
23 I'm telling you.

24 He said, Who's Pops?

25 We were in the first or second -- it was the second

1 witness out of the box. He said, Stinson doesn't do -- and I  
2 asked the Court's permission to make the whole statement  
3 because I didn't know if we can say that word in here. She  
4 says it's okay.

5 Stinson doesn't do shit like that, he said that.

6 I think "shit like that" is the thing he's here for,  
7 which he doesn't do, which Clowers said he doesn't do.

8 Then, later he says, Those older dudes -- I'm  
9 assuming John Stinson is an older dude -- Those older dudes,  
10 they are way out of the way.

11 Now, take that Witness Number 2, and add in, when we  
12 get all the way back to Witness Number 15, we know  
13 John Stinson is at Solano Prison and he's not at the prison  
14 where all this other crap is going on.

15 He's one of the old dudes that's way out of the way.  
16 So put that in your regular life. I don't know where any of  
17 you live, but let's say for the sake of argument, everything  
18 that happened in this case happened in this room or happened  
19 in this part of Fresno County. And one of you lives in  
20 Pixley -- maybe because I'm old enough to know, I think  
21 Pixley, I think of Bug Tussle. I think of Bug Tussle, I think  
22 of Petticoat Junction. I don't know if that's where Pixley  
23 is, but I do like the fact that there's a town that goes from  
24 something I remember as a kid.

25 But let's say you live in Pixley, if everything



1 happened right here in Fresno and you live in Pixley, in order  
2 for somebody to convince you or convince your friend or to  
3 convince the guy down the street that you, who lives in Pixley  
4 got involved in something that happens in Fresno, I think you  
5 would have to cover that distance block, right?

6 How did he do that? He lives in Pixley. The answer  
7 is going to be, as we get farther down, is the telephone. And  
8 that's going to be a whole other problem. But we're not there  
9 yet. But we do know, kind of what like what Troy said, Those  
10 old dudes, they are out of the way.

11 Now, John Stinson is one of those old dudes and he's  
12 in Solano. There was not one person that came into this  
13 courtroom who said, I was running the yard in Solano for John  
14 Stinson. John Stinson is in Solano.

15 I don't know nothing about the AB, but listening to  
16 this case, it sounds like to me that the guy who's in that  
17 prison, he may have other guys doing white guy stuff out on  
18 the yard.

19 Seems like to me if you are in that prison and some  
20 other guy that's in the same club that you're in, same group,  
21 is not in your prison, and he wants that guy to do stuff for  
22 him, that might be a problem. Just saying. Seems like one of  
23 the things you would have to overcome to get beyond the  
24 reasonable doubt part. If you're trying to take the position  
25 that something must have happened, if Johnson Stinson must

1 have done something.

2 Remember, this book does not say "must have." This  
3 book does not say "presume." This books does not say "of  
4 course John Stinson was involved."

5 The funny thing is, the guy with the least amount of  
6 evidence in this case, the guy that was talked about the  
7 least, is on every slide. John Stinson's picture, every  
8 slide, why is that? Everybody does this. You lead with your  
9 weakness and try to hide it by adding things that have nothing  
10 to do with the person you're talking about.

11 I get it. This is an adversarial situation. I'm not  
12 blaming them. I'm not calling them unethical. That's just  
13 the way life is. That's the way the law is. That's the way  
14 lawyers are. You get past that. Make them prove it beyond a  
15 reasonable doubt.

16 I can even get back to that mosquito thing now. It  
17 just dawned on me but give me a minute.

18 Kaylen Chandler admits that she's committed crimes  
19 most of her life, one of my co-counsel already talked about  
20 that, only going to be here for a second, denied that she  
21 committed crimes for the Aryan Brotherhood, never mentioned  
22 John Stinson in her testimony.

23 It might have behooved her to say, I did it for  
24 John Stinson because that seems to be coin of the realm around  
25 here, blame John Stinson and something is going to work for

1 you. Everybody knows John Stinson. John Stinson did it.  
2 John Stinson, I talked to John Stinson on the phone.  
3 John Stinson ordered -- he gave somebody to give some money to  
4 give to me to give me to kill somebody else. John Stinson,  
5 John Stinson, John Stinson. Proof.

6 Problem is, who's saying it. If one of you got up  
7 and said that on the witness stand from wherever you live in  
8 this county, John Stinson, that's one thing, because you don't  
9 have any reason at all to lie. You don't have a history of  
10 lying. You got to understand something, the obvious thing  
11 that nobody seems to get in this situation is, if you've been  
12 committing crimes all your life, what is the other thing  
13 you've been doing all your life?

14 All of you had grandmothers. All of you had moms.  
15 What is the other thing that goes with committing crimes all  
16 of your life? Lying.

17 And the fact that you are a dope addict, now you are  
18 definitely lying. There's not a heroin addict in the world  
19 that doesn't lie. And not just lie, they are professionals at  
20 it. One of the witnesses against John Stinson, Mr. Rapinoe,  
21 is a heroin addict or was at one time, and he admits that he  
22 lies all the time.

23 We probably need something to bridge John Stinson and  
24 Mr. Rapinoe to get past Mr. Rapinoe's lies.

25 Hold that mark. That's just logic. Hold that mark.

1 I'm going to get to that.

2 James Field, dude named "Suspect." Testified on  
3 January 28, 2025. If I'm wrong about it, ask the court  
4 reporter. He does not know John Stinson. He has never spoken  
5 to John Stinson. And the one honest thing this dude said is,  
6 The only thing I know about John Stinson is what somebody else  
7 told me. At least he's honest about it.

8 Eversole did not work for John Stinson. Oh, it  
9 sounds as though, probably was in a different room, and he  
10 must have snuck that in maybe when I was talking to John  
11 Stinson, but he did not work for John Stinson, has never  
12 personally met John Stinson, never been in the same prison as  
13 John Stinson, has never been on the same yard as John Stinson.  
14 Hmm. I don't care about all of the other lies he may have  
15 told, those things he said to you in a courtroom.

16 Brandon Bannick. I don't remember this Rick Rainey  
17 because I wasn't a part -- that wasn't one of the things I  
18 looked at, but he did say he didn't know what was going to  
19 happen ahead of time. He also said, Do not know John Stinson.  
20 He knows John Stinson because his mentor, Matt Hall, told him  
21 about John Stinson.

22 Can you convict him based upon what his friend  
23 Matt Hall, who's now dead, what Matt Hall told him about  
24 John Stinson? Can I punish any of you because of something  
25 your friend told me about you, and your friend's not here to

1 be cross-examined? Does that sound fair to you? Does that  
2 sound like that's the makings of beyond a reasonable doubt?

3 When you want to know how you deal with the evidence,  
4 of course you listen to the Court's instructions, but it's  
5 pretty much all common sense, and if you do the thing that we  
6 do, in our world, which is make the defendants "the Other,"  
7 make the enemy "the Other," it's always okay. Because they  
8 are "the Other." And we're afraid of them.

9 So we don't apply the same rules we would to  
10 ourselves. That's how it becomes okay. That's why it's  
11 advanced citizenship. That's why you can't do it.

12 That's not my fault. That's just the rule. That's  
13 not the government's fault, because they knew going in that  
14 those are the rules and you've got to come correct every time  
15 you come to federal courthouse. Every time.

16 I had this nice chart of all the prisons in  
17 California. Anyway, Solano is in a different place than these  
18 other prisons where everything else happened. I think  
19 somebody even said, I wasn't in Solano.

20 Now Danielle Ponce de Leon, she told us a whole lot  
21 of stuff about cell phones. One of the things that she told,  
22 because I tend to -- I'm one of those people that I have to  
23 theme things out and then I'll add the facts to it. But cell  
24 phones have a footprint, that was my statement to her. She  
25 finally agreed that was true. Date, time and location, that's

1 what cell phones give you. Sometimes content.

2           Going to get to another witness, which I don't want  
3 to blow it for you, but I'm going to add it to you right now,  
4 that guy -- darn it. His name was Ben Mendoza. Ben Mendoza  
5 said, If I want to know you, if I want to know who you are --  
6 what did he say, ladies and gentlemen? -- give me your phone.  
7 Remember that?

8           Now, Ben Mendoza wasn't Kenneth Reed's witness. In  
9 fact, you know Kenneth Reed did not call a witness.  
10 Kenneth Reed also did not make an opening statement. Anyway,  
11 the government -- or my position is, you've got to prove your  
12 case by yourself.

13           Ben Mendoza, the government's witness, expert witness  
14 in the Correctional Intelligence Task Force, which is a joint  
15 partnership between the federal government, FBI; Federal  
16 Bureau of Prisons, BOP; and the CDCR. These are the people  
17 here -- these are the people here making this case.

18           Their witness told you that if you want to know the  
19 person, give him their cell phone and they are going to do --  
20 they are going to do their Cellebrite stuff and check it all  
21 out.

22           Now, I want you to hold that thought for a second,  
23 because I'm going to put that together with Mr. Rapinoe, but I  
24 got to get down to Mr. Rubin first, because Mr. Rubin also  
25 testified about John Stinson. Mr. Rubin says that

1 John Stinson ordered his men to kill somebody.

2 And at the time he did this, it sounds as though it  
3 was the guy they call "Misfit" who later on become a brother,  
4 everybody starts talking about the Aryan Brotherhood rules,  
5 about it takes three brothers to order a brother to be killed.  
6 Mr. Rubin says he's not a brother, but he says John Stinson  
7 called him on the phone or somehow they talked on the phone,  
8 he didn't say if it was his phone or how it played out, and  
9 John Stinson told him he needed to kill this Misfit guy who  
10 was a brother. And you'll add the Yandell thing in, too,  
11 because he talked about both of those.

12 Here's the problem with lies. My father taught me  
13 this a long time ago when I used to get caught and get in  
14 trouble with him. He said, son -- or Kenny -- you can tell a  
15 lie, but a lie, it can't walk. Lies are single dimensional.  
16 The moment you start walking around a lie, the moment you kind  
17 of look at it a little bit, you realize there's some problems  
18 with it.

19 In this particular case, with those two incidents,  
20 which are the whole reason John Stinson is here by the way --  
21 well, the EDD, but I'll get to that -- is this guy says that  
22 he talked to John Stinson on the telephone and that  
23 John Stinson told him that he needed to kill somebody.

24 Well, for now, forget the AB rule thing because that  
25 also doesn't make sense. John Stinson is not in the prison

1 where this guy is. But John Stinson has been around for so  
2 long that he's so reckless and so stupid that he would call up  
3 a guy who is not a brother and tell him to go kill a brother.

4 Now, I don't know much about that world except what I  
5 read, but my gut would be if a non-brother killed a brother,  
6 then the other brothers might be mad about that unless they  
7 knew they were supposed to kill him. But we don't have any  
8 evidence of that. We just have some yard bird saying,  
9 John Stinson ordered me to kill somebody.

10 Now, now let's get to the key part where Ben Mendoza  
11 and the other phone lady got together and created a bit of a  
12 hurdle for this illogical argument that somehow is supposed to  
13 bridge the beyond a reasonable doubt as it applies to  
14 John Stinson.

15 When Mr. Rapinoe got arrested, what did he tell you?  
16 They got my phones, they got my computers. What did  
17 Ben Mendoza tell you what they do with phones and computers?  
18 Take those two things, those two realities and truisms, and  
19 then take this book, which tells you, add the judge's jury  
20 instructions to it, what the government, what the  
21 United States of America has to do in order to convince you to  
22 vote guilty for John Stinson or against John Stinson. You  
23 have to prove the allegation beyond a reasonable doubt.

24 You can't believe Mr. Rubin by himself. Even if you  
25 want to believe Mr. Rubin by himself, what is the thing that



1 Ben Mendoza tells you about what they got from Mr. Rubin? His  
2 phones. And if you want to know what really happened, you've  
3 got to look at his phones. Where? I don't see a thing about  
4 his phones. I didn't hear any testimony about his phones. If  
5 they did, I would have cross-examined it. And I didn't fall  
6 asleep in this courtroom.

7 Now, before you get there, before you get there, I'm  
8 going to stop you from going where I think you might be going  
9 because I've been down this road with jurors before.

10 I had a case in my district, arguing a case in front  
11 of -- the prosecutor and I argued, argued, argued, the jury  
12 was hung. Didn't matter what the split was, but they were  
13 hung. They didn't come back what a verdict.

14 I talked to the jurors afterwards. I remember her  
15 because I can see her like she was in my face right yesterday.  
16 She says, Well, you didn't prove your case, Mr. Reed. In  
17 fact, neither of you proved your case. That's why we couldn't  
18 come up with a guilty or not guilty.

19 Well, you don't have to believe me because the Judge  
20 will tell you, Mr. Reed does not have a burden. Mr. Reed  
21 doesn't have to prove anything. There is nothing in this book  
22 as to this issue that says Mr. Reed has to prove anything to  
23 you.

24 My job is to alert you to the things that are not  
25 there. I don't have to prove anything except to lay up the

1 information that needs to be put together.

2 And in this particular case, I didn't seize the  
3 phones, I don't have the information. I can speculate as to  
4 why that information is not here, but that would just be me  
5 arguing. Oh, wait a minute, this is closing, I'm allowed to  
6 do that. I can argue that.

7 If you had the information that got you over the  
8 bridge, I suspect that information would have come in from  
9 somebody over there testifying.

10 We have this phone, we can tell that this -- one of  
11 the five phones that we seized from this guy, we analyzed it,  
12 somebody comes and explains it, some nice big chart with a pie  
13 chart in colors and all those things like the witness did, and  
14 show it. Oh, yeah. And then one of those calls sent from the  
15 Solano area, they recovered where that phone is where  
16 Mr. Stinson happened to be staying. And that's consistent  
17 with Mr. Rubin's testimony, ladies and gentlemen.

18 Now, I've got to be honest. Mr. Reed is going to  
19 cross-examine no matter what, but I didn't hear any of that.  
20 Did you? No.

21 Could it be that people lie? Could it be that when  
22 you have the information to corroborate your witness, or maybe  
23 don't, or maybe you just took the phones and never did --  
24 never looked at it at all, those are all problems for you if  
25 you're on the government's side of the table. But that's

1 something that can be considered. I'm not making this up.

2 You know both of those men had their phones taken.

3 And funny thing is, now that we're talking,  
4 Mr. Rapinoe's situation, I'll give you an example of why  
5 that's the lie, because Mr. Rapinoe is a drug dealer. Not  
6 just because he's a drug dealer, but that's part of it.  
7 Mr. Rapinoe and Mr. Ghost, they did things together. And  
8 Mr. Rapinoe testified that the things he did with Mr. Ghost  
9 had nothing to do with the AB.

10 Remember that? If you don't, ask the court reporter.  
11 Because it's in there.

12 Number two, Mr. Rapinoe is now getting hit on by some  
13 dude named Trip who's an AB guy who's out on the street in  
14 San Diego, which is where he was at that time.

15 What does Rapinoe -- the first thing he says to this  
16 guy? Hey, I'm kicking up to John Stinson. Take two pieces of  
17 testimony. One, what me and Ghost are doing has nothing to do  
18 with the AB. John Stinson's AB.

19 Trip says, I don't care, I want my money. He says,  
20 No, I'm already kicking up to John Stinson. So he's lying to  
21 this Trip guy who's worried about taking his money from this  
22 ill-gotten drug money that -- what is it, selling cocaine,  
23 heroin -- no, wait a minute, methamphetamine, fentanyl and  
24 heroin, and ghost guns. And not the -- whatever he brings  
25 back from Mexico. All federal crimes. That's a different

1 question.

2 I didn't testify to that. That came from him. And  
3 he testified to that information before a grand jury. So it  
4 means at the time he told that lie, if it was a lie, he was  
5 under oath. And when he comes in and explains this whole  
6 story to you, the problem with a lie, ladies and gentlemen, as  
7 my daddy told me, it -- you can't walk it around so you can't  
8 put two pieces together because lies don't fit.

9 Was he lying to Trip, was he lying to you, or was he  
10 lying to that grand jury back there in San Diego a couple  
11 years ago?

12 Those are the two key John Stinson witnesses, and one  
13 guy is coming in telling you, John Stinson ordered me to kill  
14 this guy named Misfit. You would think just a little bit that  
15 maybe there'd be one or two witnessed that are going to  
16 explain why John Stinson needs to kill Misfit.

17 If you listen to the Misfit calls, one side of those  
18 calls, I need to talk to John. I get the fact that John  
19 Stinson and Misfit seem to talk to each other on the phone.  
20 But when you want the content of that conversation, you need  
21 more than, I need to get at John.

22 Because this guy now says Misfit and John hate each  
23 other and John wants to kill him. All from the same witness  
24 who got his phones taken. And the moment he had to deal with  
25 that issue on cross-examination, it became bobbing and weaving

1 and never said anything straight.

2 And then he does to me -- granted, maybe it didn't  
3 mean that way to you or maybe you didn't see it the way I saw  
4 it. Maybe it's just personal to me. But when you're on the  
5 witness stand, I have no further questions, ladies and  
6 gentlemen -- or Your Honor, and this boy under his voice  
7 mumbles, Thank God.

8 And I asked him, What did you say?

9 Nothing. Nothing. I didn't say anything.

10 That's who he is. That's who he is. Not -- forget  
11 the disrespectful, that has nothing do with it. It has to do  
12 with the kind of sneaky -- oh, I can't use that word -- it has  
13 to do with the kind of person that this guy is. You get to  
14 look at all of that because you judge the facts.

15 It is advanced citizenship to be a juror. But you do  
16 something that no one else gets to do in a jury trial. No  
17 one, not even the judge -- well, not on the key parts -- you  
18 judge the facts. And you are equipped to do that.

19 The law is judged by the Court. The legal issues  
20 that we handle or they did handle that you guys had to stay in  
21 the back and wonder why we're waiting, those are all Judge  
22 issues, the lawyers talking back and forth stuff. But fact  
23 stuff, you own that. That's why the courtroom is so special.

24 And nowadays, or this time right now, we can't ever  
25 let that go away. The government is just a party in a

1 criminal case. They own nothing except they have a burden.  
2 Never, never, never let them have to go below that burden.  
3 That's your job. That's why it's advanced citizenship.

4 And that's why it's so hard. Because you ain't gotta  
5 like the AB. You don't have any reason to like them. You  
6 need to make your decision in spite of how you may feel about  
7 them.

8 All right. So I'm circling back to the mosquito.  
9 I've figured out a way to make this work.

10 Mr. Reed, we've been listening to testimony for five  
11 weeks, so many witnesses, so many things, it's just too much.  
12 I'm just one person. I'm just -- I'm just one guy. I take  
13 care of my mom. I drive a truck. I'm a school teacher. I'm  
14 not getting paid to be here. This is hard for me. This isn't  
15 fun. I just want to let it go. It's too much.

16 You, the 12 of you that make the decision, forever  
17 you will be the jury of the United States v. Stinson, Johnson,  
18 and Clement. Okay? If you think that you are too small to  
19 make a difference, I think you try spending a night in a  
20 closed room with a mosquito. A mosquito doesn't weigh next to  
21 nothing and he annoyed me the whole night, haunted me the  
22 whole night.

23 That's -- is that an allegory? I'm not sure of the  
24 word.

25 No matter how insignificant you might feel, your

1 individual action can still make a difference. I want you --  
2 or I'm asking you -- I don't even remember what the federal  
3 jury instruction says. I'd probably have to look it up  
4 tonight, but I think that the Court demands, asks for, or one  
5 of the two, asks for your individual opinion.

6 That means you don't have to agree with the other 11.  
7 That's just life. I'm asking you, the 12 of you that stay --  
8 and I just don't remember where the split is, I'm sorry, it's  
9 been a while, but -- right there where you are? Okay.

10 The 12 of you that stay, I'm asking you for your  
11 individual vote and opinion on the facts that are before you.  
12 That's all any of us can ask for. And it doesn't make a  
13 difference if John Stinson is John Stinson, the  
14 Aryan Brotherhood member, or if Kenneth Reed someday  
15 represents somebody who, I don't know -- I'm trying to think  
16 of something that's -- or a nun. But why would a nun have a  
17 criminal case? I don't know. I have to think of something  
18 really -- I haven't been able to figure one of those out  
19 because I haven't done -- represented any nuns.

20 But somebody else is charged, a beautiful little  
21 blonde-haired, blue-eyed kid who's charged with some serious  
22 crime that clearly he didn't do and everybody wants to convict  
23 him because he's a blonde-haired blue-eyed kid. That's  
24 Stinson, John Stinson in that kid. As far as you're  
25 concerned, it shouldn't be any difference because the evidence

1 is the evidence.

2 I don't know how the government gets past those  
3 things when it comes to John Stinson. And I'm asking you  
4 individually, because I can't talk to you as a -- I can talk  
5 to you as a group, but I'm asking you to make that call. Go  
6 through any evidence.

7 And I'm going to assume at the end, no matter how you  
8 rule or how you decide, that you went through that hard part,  
9 the part that makes it advanced citizenship.

10 Oh, it's five minutes past where I wanted to go.  
11 Anyway, thank you very much for your time.

12 THE COURT: All right. Thank you, Mr. Reed.  
13 Ms. Stokman.

14 MS. STOKMAN: You're almost there, this is it.

15 I'm not going to address everything that defense  
16 counsel brought to your attention because I'm going to rely on  
17 your memory of what you heard and what you saw during this  
18 trial and your ability to talk that out with each other.

19 But I am going to talk about some things because I  
20 think that these are important things for you to remember.

21 I do want to say that everything you just heard, a  
22 lot of that is taking things out of context, and I think  
23 that's been the theme throughout this trial. The witnesses  
24 have been asked questions and they're asking questions that  
25 have been taken out of context from what they actually said.



1           Today you're here and you're being shown transcripts.  
2 Those aren't in evidence. Again, it's your memory, your  
3 notes. But again, those are being taken out of context.

4           So let's talk a little bit about what you need to go  
5 back there to make this decision. And I want to remind you of  
6 this.

7           Timothy True told you that Kenneth Johnson said to  
8 him that whites are to be used as tools for the benefit of  
9 AB members. And that is what you have heard throughout this  
10 case.

11           Defense wants you to believe that because of what  
12 witnesses who sat in front of you have done in their past,  
13 that they are not credible, that what they did means that they  
14 can't change their ways and that you shouldn't believe them.

15           But that's not what the evidence showed you, and  
16 that's not what the witnesses showed you.

17           You have that instruction about judging credibility.  
18 It is using your common sense. The Judge gives you things  
19 that you can look at to judge someone's credibility, but you  
20 know to do that. We judge people's credibility every day.

21           And you were able to sit here and watch witnesses  
22 talk to you about things they've done in their past, things  
23 that they've been charged with, things that they haven't been  
24 charged with, and tell you about those, but also about the  
25 reasons why they're sitting in front of you. And you can use

1 all of that.

2 Remember their demeanor, remember the way they  
3 answered questions. And if those questions were ones that  
4 they actually weren't really understanding or if they were  
5 clear, all of these things that you already know, you can use  
6 to judge credibility. You have those tools.

7 The standard for judging credibility is not whether  
8 or not you would give them the key to your house. That is not  
9 what you need to do. You don't have to like these people.  
10 You just have to evaluate what they told you and everything  
11 surrounding that and come to your conclusion about whether or  
12 not you believe what they said to you.

13 They come from different backgrounds, different  
14 perspectives, different times and experiences, and they told  
15 you what they experienced through those perspectives. Every  
16 one of them told you that they were telling you what they had  
17 heard, what they had seen, what they had interacted, and their  
18 experience with the AB, which doesn't match up with each  
19 other, because they are all individual people who are in  
20 different positions and in different places to form those  
21 opinions for themselves.

22 They told you that they were up here telling you  
23 their truth, not what the government wanted them to say, not  
24 what they think you want to hear in order to find these  
25 defendants guilty, but they told you their truth. And I

1 submit to you, you have enough to believe what they told you.

2 They, those witnesses that got on the stand and told  
3 you about their interactions with the AB, they were also tools  
4 used by AB members like the defendants. They were used as  
5 tools to make money. They were used as tools for violence.

6 And of course the people that the defendants were  
7 using as tools had criminal histories. That's exactly the  
8 type of people they need, criminals who are good at being  
9 criminals, because that's who can make money for them, and  
10 those are the people willing to run into those fires that they  
11 are telling them to go into, like James Field who told you  
12 that he wanted to be a member so badly that he was going to  
13 kill his friend, this person he became friends with, because  
14 that was the order. Tools.

15 But of course they have the histories that they have,  
16 because otherwise, they wouldn't be chosen by these defendants  
17 to do what they did. And they were used as tools because if  
18 they didn't follow orders, violence could be used against  
19 them. Again, that's a nonnegotiable obedience of orders.

20 And I know Ms. Luem talked to you about some orders  
21 that you heard that are seemingly not met with violence. But  
22 you heard who paid the price for the Rick Rainey incident. It  
23 was James Yagle and Ronnie Ennis. You heard why Spencer Fox  
24 wasn't pushed when he didn't want to commit the Lowery murder,  
25 because they were afraid. These defendants here, Johnson and

1 Clement, were afraid that if they pushed him too hard, he  
2 would get scared and he'd go tell people in the prison, and  
3 they'd be in trouble. He'd tell on them.

4 And that is similar to what you heard in that call  
5 that I mentioned to you before with John Stinson and the other  
6 AB brothers where they are trying to figure out if  
7 Bobby Stockton is a snitch.

8 Andrew Collins pipes up and says, Hey, I just want to  
9 let you guys know, I understand, we want to talk about this  
10 guy. He might be a snitch. But let me remind you, he's doing  
11 a lot of work for us.

12 So I submit to you that, yes, there are some times  
13 when the rules are not consistent with the violence, but think  
14 about whether those are occurring with people who have some  
15 other benefit for these defendants, like Rubin, who was  
16 willing to do anything asked; like Perkins, who although he  
17 owed debt -- a debt money, or he owed money, he was making  
18 money. He was good at it. And you heard that as long as that  
19 pressure was on him for that debt, he was still making money.  
20 So think about that.

21 You also heard that violence was held over those who  
22 were given orders but also that there were other motivations  
23 that were held over their heads to make them follow the  
24 AB rules and to follow orders. This included taxing. Taxing  
25 people for not answering their phones because they fell

1 asleep.

2 And what did Brandon Bannick tell you about that?

3 He got taxed, like we saw in the messages between  
4 Kenwood and Field, because he wasn't answering his phone, and  
5 he had racked up thousands of dollars in debt to Kenwood.

6 And when the time came for him to help Gray with the  
7 Lomita murders, that was used as motivation over him to get  
8 him to help, You owe us money. Now let's get yourself out of  
9 trouble by following an order we give you.

10 So think about that too. It's not just to make the  
11 money, but it's also to motivate people to follow the rules  
12 beyond the motivation of violence.

13 I submit to you that you have enough to find these  
14 witnesses credible and reliable based upon their demeanor and  
15 the way you observed them and the way they told you what  
16 happened.

17 But also the evidence matches what they told you, and  
18 what they told you is consistent with one another.

19 You'll hear instructions, and I think you might have  
20 heard it already, telling you that the testimony of one  
21 witness is enough. If you believe that witness, that's enough  
22 to meet the burden beyond a reasonable doubt for what that  
23 witness is telling you.

24 But you have more here. Each witness is a piece of a  
25 puzzle. They don't know how they interact with the other

1 pieces of the puzzles, but you do. You sat here through this  
2 entire trial, and you saw how each piece of the puzzles butted  
3 up against the other pieces, butted up against the evidence  
4 that corroborated what they told you and the testimony of  
5 other witnesses who also said the same thing.

6           You're in the unique position to have heard all of  
7 that and to see how this puzzle is put together.

8           Let's talk a little bit about specific things that  
9 help you find that those pieces of the puzzles match when it  
10 comes to some of these witnesses.

11           Brandon Bannick, again, some misrepresentations about  
12 how that testimony went about. And again, it's your  
13 recollection of the evidence and your notes that rule, not  
14 what we tell you up here.

15           But the question was asked -- or you were shown a  
16 transcript, again, that is not in evidence that Bannick didn't  
17 know if Kenwood was involved in the Lomita murders. But  
18 actually what he said was, Nobody told me he was involved  
19 directly, that he didn't actually know the answer to that,  
20 whether he was or not.

21           But I submit to you that you know the answer to that  
22 based upon what Brandon Bannick told you and you what  
23 Robert Eversole told you. Because Brandon Bannick owed a debt  
24 to Kenneth Johnson, and when Frank told him, Brandon Bannick,  
25 to go help Justin Gray, that was what Frank told him, If you

1 go help, the debt to Johnson will be cleared.

2           You heard that Johnson takes these debts seriously.  
3 You heard that from Bannick and from Field, because Perkins'  
4 debt was causing Perkins a lot of trouble.

5           And Johnson was arbitrarily fining Perkins for up to  
6 half a million dollars and demanding he kept paying all of it,  
7 even when significant chunks were being paid.

8           So think about this: If Johnson takes those debts  
9 seriously, wouldn't he need to allow Frank to use that as  
10 motivation to get Bannick to help Gray? Wouldn't Johnson need  
11 to say, Yeah, if he goes and helps, that can clear my debt?

12           And that's consistent with what Robert Eversole told  
13 you, that Johnson and Clement both were involved in the orders  
14 to kill Allan Roshanski.

15           It also -- there was also a moment where a transcript  
16 of Brandon Bannick's testimony was shown to you about what was  
17 said after the Pomona murders in the hotel room. And again,  
18 the transcript showed you one part but didn't go into the  
19 next -- the next question asked.

20           And the next question that Brandon Bannick got asked  
21 about what Field said after they were discussing, Why did  
22 Jimbo get killed, was that, Did Field ever mention anything  
23 about lying? And Brandon Bannick said, Yeah. He said that  
24 Jimbo had lied.

25           That's not inconsistent with what James Field told

1 you he said. And again, think about people and their memory.  
2 One person's memory is different than another's when it comes  
3 to the event because they are focusing on different things. I  
4 submit to you that the memory that's in their brains from this  
5 incident is the actual killing of their friends, not  
6 necessarily all the statements and what those statements were  
7 after when that adrenaline was still in them and they were  
8 kind of like processing this moment.

9 So think of that too. When you come to this  
10 conclusion of whether people are being inconsistent, remember  
11 that they are seeing different perspectives because they are  
12 different human beings.

13 So let's talk about Robert Eversole.

14 He got up there, and he told you that what he was  
15 saying to you wasn't what anyone told him to say or what he  
16 thought someone expected him to say, that it was his truth.

17 He told you about Kenwood's involvement in the  
18 ordering of the Lomita murders, because that is what he knew.  
19 Those are the conversations he had.

20 This is consistent with what we just talked about  
21 with Brandon Bannick and that debt. But also think of this:  
22 The two witnesses who told you how the events of Lomita took  
23 place told it to you from their perspective. And Eversole was  
24 in a much more trusted seat within the AB than Brandon Bannick  
25 was.



1           Eversole was up for membership, which, as  
2 Daniel Rubin told you, once that happened, it's like you're  
3 part of the inner circle. So of course he's trusted by  
4 Johnson and Clement to know that there's a plan to kill  
5 someone, where Brandon Bannick wasn't even told that until he  
6 talked to Gray. Because the other person who needed to know  
7 the plan was Gray because he was supposed to enforce it.

8           So think about the difference, too, in that status  
9 and why someone would know information that another witness  
10 does not.

11           Eversole also told you that he had extensive  
12 discussions about EDD that Roshanski was committing and that  
13 Kenwood talked to him about the fact that because he didn't  
14 belong to another white organization, his EDD fraud proceeds  
15 needed to go up to the AB members.

16           You know that that was originally why this meeting  
17 was scheduled, to get those profits. But the disrespect came  
18 in because in the meantime -- Eversole told you and  
19 Brandon Bannick told you that somehow Roshanski had  
20 disrespected Frank and that then became this reason for  
21 murder.

22           Yes, the EDD and the owing of money was part of it,  
23 but once that disrespect happened, that's when that order came  
24 out.

25           Also, there's a lot of, again, testimony taken out of

1 context.

2 When Robert Eversole was asked on cross-examination  
3 about why he didn't bring up Kenneth Johnson originally, he  
4 was trying to tell you then that he had. But he was pointed  
5 to places in the transcript that made it seem like he wasn't  
6 talking about Johnson.

7 And when I got up there and asked him again, Hey, why  
8 don't you clarify what you were trying to show before, he told  
9 you, There were multiple places in all of these interviews in  
10 all of this discussion about Lomita where I was talking about  
11 Johnson, because Johnson and Frank -- this was a thing they  
12 were doing together.

13 So you take your memory of how he testified and what  
14 he told you, and you put that in the context of the evidence  
15 you actually heard on that stand and that was presented in  
16 front of you.

17 He also told you that during the course of his  
18 interviews, lengthy interviews, he was asked about multiple  
19 different murders that were potentially related to the AB.  
20 And he told you that he didn't identify Johnson and Clement as  
21 ordering any of those murders because they -- he didn't know  
22 if they did. So I submit to you, he's giving you what you  
23 need to find his testimony reliable.

24 He also was not in the room with Brandon Bannick or  
25 Justin Gray, or even when Justin Gray was in that hotel room

1 before Lomita, before Brandon Bannick came in.

2 Robert Eversole was sitting in a prison cell. He wasn't in  
3 the room. He didn't know who was there. He thought he heard  
4 Brandon Bannick.

5 Brandon Bannick told you that Gray took a phone call.  
6 He didn't know who it was with. We don't know if that was the  
7 call to Robert Eversole, but what you do know is that Eversole  
8 wasn't in that room, just as he wasn't in the cell where  
9 Lowrey was killed. He only knew what he was told because  
10 Thrasher Holmeyer told him that.

11 When Eversole testified, he told you about his own  
12 involvement in the Lomita murder, and he told law enforcement  
13 about that as well.

14 Despite being under the cooperation agreement -- and  
15 I submit to you because he was under the agreement, which he  
16 told you required him to tell the truth, he told the truth is  
17 he knew from Lomita that he got the orders from Kenwood and  
18 Frank, and he passed those on.

19 And he got emotional on that stand, if you remember,  
20 when he was talking to you about passing those orders on to  
21 Justin Gray because Gray was like a brother to him. And he  
22 told you and he told law enforcement about Gray's involvement  
23 as well.

24 So I submit to you that what he told you came from  
25 his memory and from what happened and was not something he

1 made up because he thought someone else wanted to hear it.

2 Timothy True, again, when you heard a little bit  
3 about the transcript, from when he testified, just not that  
4 long ago, it kind of stopped short in the point that was  
5 trying to be made. If you remember, there was discussion  
6 about, Well, how are these ideologies different if you did  
7 commit this act? You killed -- you tried to kill someone from  
8 your own gang. And he said, Well, because the AB kills  
9 non-white -- or white nongang members, nongang members. So in  
10 his mind, because he was a criminal, he was a gang member, his  
11 mind, that violence, the line was, that, Okay, if it's against  
12 other gang members, that's one thing, but when it's against  
13 these other people who aren't part of a gang and this isn't  
14 the life they chose, I have a problem with that.

15 So again, we get right up to where they -- you know,  
16 his testimony was, and then you weren't told the rest of that  
17 story. But you remember that testimony, so use your memory in  
18 that.

19 James Field told you that the drugs that he took did  
20 not affect his behavior. And again, the evidence, those  
21 puzzles pieces, they point -- they jut right up to each other,  
22 because the evidence is very consistent with what James Field  
23 told you.

24 It's the robbery. It's the murders. It's the cell  
25 phone location data that links where everybody is. His

1 memory, I submit to you, is perfectly fine, despite all that  
2 drug use, because the evidence tells you that it was.

3 As far as Ruben, he told you that John Stinson found  
4 out about Andrew Collins' behavior that Stinson wasn't happy  
5 with, and that's why the order went out about Collins.

6 And again, he talk -- he got up there and told you  
7 about his history and his experience. And I submit to you  
8 that, again, the credibility, when you look at different  
9 witnesses, they all have different personalities. And it is  
10 based on not only who they are as people, but their  
11 experiences within the AB as well.

12 And some were a little bit more able to kind of  
13 soften for you to see that, and some were not. But that is  
14 something that you needed to figure out. And is that  
15 something that you can automatically say they are not telling  
16 you the truth about? Use your common sense and the skills you  
17 have to judge credibility and come to the determination.

18 But again, I submit to you that what you heard is  
19 consistent with other witnesses and the evidence.

20 And lastly, Troy Clowers, this discussion about him  
21 today was also taken out of the context. Clowers told you who  
22 John Stinson was, and what he did for him. And other  
23 witnesses also told you John Stinson's role in the AB.  
24 Clowers told you that "Pops" was a name that people who were  
25 close to John called him, and he wasn't sure if everybody knew

1 about that because of that reason and Daniel Rubin told you  
2 the same.

3 The comment about the "old dudes" I submit to you  
4 means that when you've been in this gang for this long, you're  
5 not getting your hands personally dirty anymore. Sitting  
6 back, doesn't that sound like it means you have other people  
7 like Clowers and Rubin doing that dirty work for you? Because  
8 that, we know, is the position that John Stinson was in.

9 He was part of the three-man council, he was a  
10 long-standing AB member, and everyone who talked to you about  
11 him said that he was pretty high ranking.

12 As for the witnesses that you didn't hear from and  
13 the evidence that you weren't shown, you're not to speculate  
14 on that. And the jury instructions tell you that. You heard  
15 the evidence presented to you from the people who were there,  
16 and you heard the orders -- you heard the orders directly from  
17 the people who testified.

18 Those are the people who got in front of you. The  
19 ones who personally committed these offenses and who  
20 personally took the orders. You're not to speculate about  
21 what anyone else may or may not say or where they are. And  
22 that's goes for the evidence too.

23 But you did hear that during the course of the  
24 activity of the AB, there was a lot of discussion about using  
25 encrypted apps like Signal, and changing phone numbers, and

1 doing other things to avoid getting detected by law  
2 enforcement.

3           You heard that Cellebrite, it is not often, it's a  
4 kind of a rare thing that it would pick up encrypted app  
5 messages or details. And you also heard that when those  
6 encrypted apps are being used, it avoids wiretapping that  
7 telephone, and also, on a cell phone data, as far as  
8 Danielle Ponce de Leon told you, data is the only thing that's  
9 going to show up, not calls, not details. So think about that  
10 too.

11           Consider also why the AB has the rules they have  
12 about cooperation. Why they used violence for control. It's  
13 like True said about the Lowrey murder and Spencer Fox, you  
14 kind of go gently on him because you don't know if he's just  
15 going to get scared and go talking to law enforcement.

16           What you saw here is a good example of that. Most of  
17 these witnesses told you that in the end the AB was not what  
18 they believed it to be. And what did that lead to? It led to  
19 testimony about the inner workings of the AB, because when you  
20 are part of the gang committing crimes it's the inside people  
21 who know the dirt. And those are the witnesses you heard  
22 from.

23           Inherent in the process of becoming a brother is  
24 knowledge of the AB and what it does, and you heard that from  
25 witnesses who were up for membership.

1 But there's a period of time where you have to commit  
2 certain crimes, learn about the AB, talk to AB brothers, learn  
3 how to act like a brother. You don't just fall into that  
4 position. It's a process that involves learning, it involves  
5 knowledge of the AB and what the AB does. And all of these  
6 defendants have that knowledge. Not only from that process  
7 when they were -- they became members, but also from what  
8 they've done while they've been AB brothers. And what you've  
9 heard from these witnesses tells you what they've been doing.

10 All of these defendants benefitted from the crimes  
11 being committed by their associates. And you heard from those  
12 associates, you heard what those crimes were, and you heard  
13 the crimes that the defendants themselves were personally  
14 involved in.

15 Their roles as made members allows them to make the  
16 rules, to give the orders, to take the money made by other  
17 people through drug trafficking, robberies, and fraud. They  
18 also get to benefit from the use of violence including  
19 murders.

20 As you heard, AB members are gods. They are the  
21 elite. And they rule on fear and power. Everything you have  
22 heard during this trial has been done for or on behalf of the  
23 AB. Everything is in furtherance of the AB and these  
24 defendants' position within that enterprise.

25 The defendants have used whites as tools to their



1 advantage for way too long. The witnesses who sat before you,  
2 they told you that. In their testimony, they also told these  
3 defendants that.

4 So now it's time for you to tell them that. That  
5 it's no longer okay to use people as tools for their own  
6 benefit, and that they're guilty of the crimes that they've  
7 been charged with. Thank you.

8 THE COURT: Ladies and gentlemen, I have a few more  
9 instructions, including one that I accidentally skipped  
10 earlier.

11 To prove that a defendant is guilty of distribution  
12 of a controlled substance under federal law, the government  
13 must prove that, one, the defendant knowingly distributed  
14 methamphetamine or fentanyl, and two, the defendant knew the  
15 substance was methamphetamine or fentanyl.

16 To distribute means to deliver or transfer possession  
17 of methamphetamine or fentanyl to another person with or  
18 without any financial interest in that transaction.

19 To possess with intent to distribute means possess  
20 with intent to deliver or transfer possession of  
21 methamphetamine or fentanyl to another person with or without  
22 financial interest in the transaction.

23 When you begin your deliberations, elect one member  
24 of the jury as your foreperson who will preside over the  
25 deliberations and speak for you here in court.

1           You will then discuss the case with your fellow  
2 jurors to reach agreement if you can do so.

3           Your verdict, whether guilty or not guilty, must be  
4 unanimous.

5           Each of you must decide the case for yourself, but  
6 you should do so only after you have considered all the  
7 evidence, discussed it fully with the other jurors and  
8 listened to the views of your fellow jurors.

9           Do not be afraid to change your opinion if the  
10 discussion persuades you that you should. But do not come to  
11 a decision simply because other jurors think it is right.

12           It is important that you attempt to reach unanimous  
13 verdict, but, of course, only if each of you can do so after  
14 having made your own conscientious decision. Do not change an  
15 honest belief about the weight and effect of the evidence  
16 simply to reach a verdict.

17           Perform these duties fairly and impartially. You  
18 should also not be influenced by any person's race, color,  
19 religious beliefs, national ancestry, sexual orientation,  
20 gender identity, gender, or economic circumstances.

21           Also, do not allow yourself to be influenced by  
22 personal likes or dislikes, sympathy, prejudice, fear, public  
23 opinion or biases, including unconscious biases. Unconscious  
24 biases are stereotypes, attitudes or preferences that people  
25 may consciously reject but may be expressed without conscious

1 awareness, control or intention.

2 It is your duty as jurors to consult with one another  
3 and to deliberate with one another with a view towards  
4 reaching agreement if you can do so.

5 During your deliberations, you should not hesitate to  
6 reexamine your own views and change your opinion if you become  
7 persuaded that it is wrong.

8 Because you must base your verdict only on the  
9 evidence received in the case, and on these instructions, I  
10 remind you that you must not be exposed to any other  
11 information about the case or the issues it involves.

12 Except for discussing the case with your fellow  
13 jurors during your deliberations, do not communicate with  
14 anyone in any way and do not let anyone else communicate with  
15 you in any way about the merits of the case or anything to do  
16 with it. This restriction includes discussing the case in  
17 person, in writing by phone, tablet, computer, or any other  
18 means, via email, text messaging, or any internet chat room,  
19 blog, website, or any other form of social media.

20 This restriction applies to communicating with your  
21 family members, your employer, the media or press, and the  
22 people involved in the trial. If you are asked or approached  
23 in any way about your jury service or anything about this  
24 case, you must respond that you've been ordered not to discuss  
25 the matter and to report the contact to the Court.

1 Do not read, watch or listen to any news or media  
2 accounts or commentary about the case or anything to do with  
3 it. Do not do any research, such as consulting dictionaries,  
4 searching the internet or using other reference materials.  
5 And do not make any investigation or in any other way to try  
6 to learn about the case on you own.

7 The law requires these restrictions to ensure the  
8 parties have a fair trial based on the same evidence that each  
9 party has had the opportunity to address. A juror who  
10 violates these restrictions jeopardizes the fairness of these  
11 proceedings and a mistrial could result that would require the  
12 entire trial process to start over. If any juror is exposed  
13 to any outside information, please notify the Court  
14 immediately.

15 Some of you may have taken notes during the trial.  
16 Whether or not you took notes, you should rely on your own  
17 memory of what was said. Notes are only to assist your  
18 memory. You should not be overly influenced by your notes or  
19 those of your fellow jurors.

20 The punishment provided by law for this crime is for  
21 the Court to decide. You may not consider punishment in  
22 deciding whether the government has proved its case against  
23 each defendant beyond a reasonable doubt.

24 Verdict forms have been prepared for you. After you  
25 have reached unanimous agreement on a verdict, your foreperson

1 should complete the verdict form according to your  
2 deliberations, sign and date it, and, when all three verdict  
3 forms are complete, advise the bailiff that you are ready to  
4 return to the courtroom.

5 If it becomes necessary during your deliberations to  
6 communicate with me, you may send a note through the bailiff  
7 signed by any one or more of you.

8 No member of the jury should ever attempt to  
9 communicate with me except by assigned writing. I will not  
10 communicate with any member of the jury on anything concerning  
11 the case except in writing or here in open court.

12 If you send out a question, I will consult with the  
13 lawyers before answering it, which may take some time.

14 You may continue your deliberations while waiting for  
15 the answer to any question.

16 Remember that you are not to tell anyone, including  
17 the Court, how the jury stands, whether in terms of vote count  
18 or otherwise, until after you have reached a unanimous verdict  
19 or have been discharged.

20 All right. Can we have the Court's security officer  
21 sworn?

22 (Court Security Officer was sworn.)

23 THE COURT: All right. I will ask our 12 jury  
24 members to -- you will be excused for deliberation. The  
25 remaining six of you, you are still retained for purposes of

1 replacing a juror in the event that occurs. However, you also  
2 at this time will be excused to the jury deliberation room to  
3 gather your things and to be excused for -- for today's  
4 proceedings.

5 If you will just make sure -- I know we have contact  
6 information for all of you. And if it becomes necessary, then  
7 we will contact you, and you will take the place of a juror if  
8 they are excused.

9 Otherwise, thank you so much. And you may go back to  
10 the jury deliberation room and begin.

11 (Jury exits the courtroom at 1:13 p.m.)

12 THE COURT: The jury members have stepped out. Is  
13 there anything for the record at this time?

14 MS. DE SALES BARRETT: Your Honor, there are -- I  
15 don't know what the procedure is for the Court in terms of  
16 exhibits. We can do this case by case if the exhibits are  
17 remaining out of the -- outside the jury room. But there are  
18 some discrepancies that I have found with regard to the list  
19 of what's in evidence and on the list that was circulated by  
20 your deputy.

21 THE COURT: All right. Ms. Barrett, what -- what are  
22 your discrepancies?

23 MS. DE SALES BARRETT: Uh, Your Honor, what I have  
24 with regard to this is -- has to do with the 1800 numbers,  
25 beginning with 1800.

1           They -- and this -- this pertains to five exhibits --  
2 six exhibits: 1800, 1806, 1809, 1810, 1811, and 1820. Those,  
3 only the clips are introduced into evidence, not the entire  
4 marked exhibit.

5           You may remember that the CDs were marked as a whole,  
6 but the government only offered the clips into evidence, and  
7 so I think that should be noted on the form.

8           THE COURT: Is that consistent with your  
9 recollection, Ms. Stokman?

10          MS. STOKMAN: Yes. The clips were admitted into  
11 evidence except -- or unless -- such as 1820, the call itself  
12 was very short, so there was no clip. It was the call.

13          THE COURT: Does that sound right, Ms. Barrett?

14          MS. DE SALES BARRETT: Yes, Your Honor.

15          THE COURT: All right.

16          MS. LUEM: I'm sorry. Just to clarify, on that note,  
17 I know that at least two calls, there were redactions that  
18 were made both from the transcript and the recording. So I  
19 assume those replaced the original clips that were provided.

20          MS. STOKMAN: Yes, they did.

21          MS. LUEM: Thank you.

22          MS. DE SALES BARRETT: Your Honor, the question I  
23 have about the clips is in the event that the jurors request  
24 listening to the tapes, and the transcripts are not part of  
25 the evidence, it would seem to me that they should only be

1 listening to the tapes themselves and not viewing the  
2 transcripts as they did during the trial.

3 THE COURT: Correct.

4 MS. DE SALES BARRETT: And then the last thing I have  
5 is 1848, I believe, is on the list -- the Court's list as  
6 being in evidence. And I haven't had a chance to check with  
7 the government, but I don't believe it's in evidence.

8 MS. STOKMAN: That's correct. There were some items  
9 that we had admitted that are not on the admitted list as  
10 well, if Ms. Barrett is finished.

11 MS. DE SALES BARRETT: I am finished.

12 THE COURT: All right.

13 THE CLERK: So 1848 is removed.

14 THE COURT: Right.

15 Ms. Stokman?

16 MS. STOKMAN: We also had 1829 through 34 -- or 35.  
17 I think some of these were already on the admitted list, but  
18 not all of them, but they were all admitted.

19 MS. DE SALES BARRETT: I agreed, Your Honor.

20 THE COURT: 1829 through 1835, is that what we're  
21 talking about?

22 MS. STOKMAN: Correct.

23 MS. DE SALES BARRETT: Yes.

24 THE COURT: All right. Anything else for the  
25 government?



1 MS. STOKMAN: I think that's it.

2 THE COURT: Anything else for --

3 MS. FISHER-BYRIALSEN: Yes. Where would you like us  
4 to wait? Do you want us to come back to the courthouse?  
5 Like, how close do we have to be? And do you want us to be  
6 here at 8:00 a.m.? Just practically speaking, what do we need  
7 to do?

8 THE COURT: Let me finish this, and I'll definitely  
9 get to that.

10 Is there any other exhibits that you feel have not  
11 been marked properly for Mr. Johnson and Mr. Stinson? All  
12 right.

13 So as to that question, ideally, you will be -- well,  
14 not ideally. I need you to be within about 20 minutes from  
15 the courthouse. When the jury reconvenes in the morning, you  
16 don't need to be here. We're not going to call everyone  
17 together, but you do need to be accessible in case there's a  
18 question or whatever.

19 And that does bring up, I know now that Mr. Clement  
20 and Mr. Johnson have filed waivers of their appearances, so  
21 you will come or not come at your -- your option. And  
22 Mr. Stinson's is already there.

23 All right. Anything else, then, at this time?

24 MS. STOKMAN: Judge, I'm sorry, I just wanted to  
25 confirm. I think it was 1862 that was the probation

1 department report on Mr. Rapinoe. That is not admitted into  
2 evidence, correct? It is just marked because --

3 THE COURT: It has been marked.

4 MS. STOKMAN: Yes. Okay.

5 MS. DE SALES BARRETT: Let me get there. Oh, yes. I  
6 don't have it as being in evidence.

7 MS. STOKMAN: Just wanted to make sure.

8 THE COURT: All right. Anything else, then?

9 MR. VILLA: Yes, Your Honor.

10 MS. LUEM: Oh, I'm sorry. I may have missed this,  
11 but is the jury leaving at 1:30 today?

12 THE COURT: That's what they had told us, yes.

13 MR. VILLA: With respect to tomorrow, Mr. Johnson has  
14 submitted a waiver, but he'd like to be present for the  
15 verdict. And in discussing it with the marshals, it seems  
16 like that they could facilitate that within, you know, maybe  
17 half an hour, maybe slightly more, you know, if there were  
18 some hiccups.

19 So we would ask that -- that that be allowed. If  
20 there's a question or something else, you know, we don't need  
21 to bring him.

22 THE COURT: Here's the only difficulty: If the jury  
23 were to come back at one o'clock, say, and they need to leave  
24 at 1:30, or they come back at 1:10, I mean, that could cause a  
25 problem. That's something to consider.

1           If -- I mean, if you want to be here, you should  
2 come. If you don't, while I appreciate the marshals' efforts,  
3 I can't bring a jury back another day. I don't want to  
4 inconvenience 12 people and incur the cost associated with  
5 that for that reason. I mean, so that's -- that's my position  
6 on that.

7           All right. Anything else?

8           MR. VILLA: Your Honor, and I think he's saying if  
9 that's happens, he'll -- he'll live without being here, but  
10 otherwise, if it's feasible --

11          THE COURT: Okay.

12          MR. VILLA: Thank you, Judge.

13          THE COURT: All right. Anything else, then? All  
14 right. Thank you.

15          (Proceedings were adjourned at 1:21 p.m.)

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20          I, RACHAEL LUNDY, Official Reporter, do hereby certify the  
21 foregoing transcript as true and correct.

22

23          Dated: February 11, 2025

24

25

/s/ Rachael Lundy  
RACHAEL LUNDY, CSR-RMR  
CSR No. 13815